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ABSTRACT

The regulation of nonpublic and public postsecondary institutions was studied by the North Carolina Legislative Research Commission. Attention was directed to the following concerns: whether regulation of all postsecondary degree-granting education is needed; whether regulation could best be provided by a governmental licensing process or by a nongovernmental, voluntary accreditation process; and the merit of proposed legislation (House Bill 988), which would provide for licensing certain nonpublic postsecondary institutions not subject to state law or regulation. Findings include the following: the need for regulation of nonpublic and public degree-granting education has grown during recent years; minimal standards guaranteed by regulation must extend to both in-state institutions and out-of-state institutions offering in-state field-based education; mandatory governmental licensing is the only process that can guarantee that institutions are meeting minimum standards; and House Bill 988 accomplishes the legislative intent to provide for licensing postsecondary degree-granting education not otherwise regulated. Appendices include the text of relevant legislation, including House Bill 988, and background materials submitted to the Commission, including six articles. (SW)

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LEGISLATIVE RESEARCH COMMISSION

HIGHER EDUCATION REGULATION

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REPORT TO THE 1983 GENERAL ASSEMBLY OF NORTH CAROLINA 1984 SESSION

HE 017982

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LETTER OF TRANSMITTAL

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

June 7, 1984

TO THE MEMBERS OF THE 1983 GENERAL ASSEMBLY (1984 SESSION):

The Legislative Research Commission herewith reports to the 1983 General Assembly, Second Regular Session, 1984, on the matter of higher education regulation in North Carolina. The report is made pursuant to Section 1(9) of the 1983 Session Laws Chapter 905 (House Bill 1142).

This report was prepared by the Legislative Research Commission's Committee on the Regulation of Nonpublic and Public Post-Secondary Educational Institutions and is transmitted by the Legislative Research Commission for your consideration.

Respectfully submitted,

Liston B. Ramsey — W. Craig Lawing

Cochairmen

Legislative Research Commission

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

1983-1985

LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP

House Speaker Liston B. Ramsey
Cochairman

Senate President Pro Tempore
W. Craig Lawing
Cochairman

Representative Chris S. Barker, Jr.
Representative John T. Church
Representative Bruce Ethridge
Representative John J. Hunt
Representative Margaret Tennille

Senator William N. Martin
Senator Helen R. Marvin
Senator William W. Staton
Senator Joseph E. Thomas
Senator Russell Walker

INTRODUCTION

The Legislative Research Commission, created by Article 6B of General Statutes Chapter 120, is authorized pursuant to the direction of the General Assembly "to make or cause to be made such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" and "to report to the General Assembly the results of the studies made," which reports "may be accompanied by the recommendations of the Commission and bills suggested to effectuate the recommendations." G.S. 120-30.17. The Commission is chaired by the Speaker of the House and the President Pro Tempore of the Senate, and consists of five Representatives and five Senators, who are appointed respectively by the Cochairmen. G.S. 120-30.10(a). (See page 3 for a list of the Commission members.)

Pursuant to G.S. 120-30.10(b) and (c), the Commission Cochairmen appointed study committees consisting of legislators and public members to conduct the studies. Each member of the Legislative Research Commission was delegated the responsibility of overseeing one group of studies and causing the findings and recommendations of the various committees to be reported to the Commission. In addition, one Senator and one Representative from each study committee were designated Cochairmen.

By Section 1 (9) of the 1983 Session Laws Chapter 905 (HB 1142), the Legislative Research Commission was authorized to study the regulation of nonpublic and public post-secondary educational institutions. In

order to accomplish these tasks, Representative John T. Church, as a member of the Legislative Research Commission was appointed to coordinate and oversee the Study on the Regulation of Nonpublic and Public Post-Secondary Educational Institutions. Senator Lura Tally and Representative Betty Dorton Thomas were appointed to cochair the Committee. The other members appointed were Senators T. Cass Ballenger and Vernon E. White, Representatives Anne Barnes, Gordon H. Greenwood, and Charles Woodard, and public members Dr. E. K. Fretwell, Jr., Dr. H. F. Robinson, and Mr. Carl Settle. The Legislative Services Officer provided staff assistance to the Committee for this study.

The minutes of the Committee meetings reflect the statements and discussions of each meeting. All of this information is included in the Committee files.

BACKGROUND

The General Assembly has long recognized that the State has a responsibility with respect to the conduct of postsecondary educational activity within North Carolina. There have been statutory provisions since at least 1923 for State licensure of non-public educational institutions to confer degrees. This responsibility was exercised first by the State Board of Education (1923-1955), then by the State Board of Higher Education (1955-1972), and now by the Board of Governors of The University of North Carolina.

For more than 60 years, then, this State has continued without interruption to assign to an official State board the authority and responsibility to determine the minimum requirements that an institution must meet and maintain to carry on educational activities leading toward degree credit. The continuation of this statutory oversight for such a long time is testimony to the General Assembly's conviction that effective State authorization and licensure of institutions for engaging in postsecondary educational degree-credit activity are crucial to the protection of potential customers, students, potential employers, and of taxpayers, and are essential to the credibility and integrity of the academic community itself.

Until recent years, the statutory provisions of G.S. 116-15 seemed to be adequate to protect the public interest. Since 1972, however, there has been a growing concern on the part of many agencies and groups at State and Federal levels, both within and outside of higher education, about the rapid growth in the number and variety of

degree programs, both on-campus and off-campus, especially those offered across state lines.

This activity across state lines ranges from the operation of "degree-mills", which have defrauded the public through deceptive advertising and unscrupulous practices, to marginal or substandard programs offered by established institutions, to nontraditional but respectable instruction. The separation of these programs from the sources of support available to students attending traditional institutions, for example, counseling services, full-time faculty, and library facilities, has led to grave concerns both about the quality of education these programs provide and the ultimate equities involved in treating their degrees as the competitive equivalent of traditional ones. There are some states that have no licensure laws or have loose regulatory laws and lax enforcement of them. A so-called college or university can be established in one of these states and award any degree, including the doctorate, having done little or nothing more than the filing of articles of incorporation with the appropriate commission.

The principal issue faced in North Carolina in regard to post-secondary educational activity is how to deal with those operations that set up elsewhere and then proceed to operate here.

With the increased variety and volume of educational activity across state lines, it is imperative that an effective agency, acting in the public interest, be charged with the responsibility to separate the legitimate and respectable operations from the fraudulent or substandard.

As matters now stand, neither the Board of Governors nor any other State agency has the authority to validate at least minimum educational

quality of degree-credit activities conducted in this state by any institution that claims to confer its degrees elsewhere. The North Carolina Supreme Court held in May 1982 that the jurisdiction given by the General Assembly to The University, to license non-public institutions "to confer degrees", is authority merely to regulate those institutions that hand over the "sheepskin" only in this State.

This narrow interpretation of the present statute, that it applies literally and only to the conferring of degrees in North Carolina, means that any institution that purports to "confer its degree" in another state is exempt from any oversight or licensure by this state, even though all of the instruction and all of the courses were offered and all of the credits counted toward that degree were earned in North Carolina.

In the face of the extensive new phenomenon of off-campus and out-of-state activity and the growing concern for quality, in view of recent experience in North Carolina and other states, and in the light of the court's narrow interpretation of the present statute, revision of the current licensure statute is imperative.

House Bill 988 was designed to cover a "technical loophole" by addressing deficient wording of the current statute and correcting the ineffectual situation in which the State finds itself. (Appendix D.) The subject of State regulation is made "any postsecondary degree activity" not specifically exempted so that the activity in this State represented and conducted by an institution as creditable toward a degree is brought under evaluative review regardless of where the degree is eventually awarded, in-state or out-of-state.

On May 2, 1983, HB 988 was introduced by Representatives Betty Thomas and George Miller to license certain nonpublic post-secondary educational institutions, regardless of where based, that conduct post-secondary degree activity in this State and that are not otherwise subject to State law or regulation. Certain exemptions are specified for certain institutions that have been conducting this activity since July 1, 1972, for certain religious education institutions, and for post-secondary degree activity within the military. The licensing requirements provide that an institution meet certain minimal State education standards "in recognition of the importance of higher education and of the particular significance attached to the personal credentials accessible through higher education and in consonance with statutory law of this State making unlawful any 'unfair or deceptive acts or practices in the conduct of any trade or commerce'". The Licensing Board remains the Board of Governors of The University of North Carolina.

HB 988 was drafted with the support of The University of North Carolina, the Department of Community Colleges, and the Association of Independent Colleges and Universities. It was opposed by representatives of certain institutions facing new licensure and by present holders of degrees from certain institutions, on the grounds that although the law could not affect them, it would have the effect of calling into serious question the value of their degrees.

HB 988 passed the House of Representatives but was amended in the Senate Higher Education Committee and turned into a resolution authorizing a study. It was felt by the Senate Committee that not enough consideration had been given to both sides of the issues involved. As was noted in the introduction, this study was formed pursuant to this concern.

COMMITTEE PROCEEDINGS

The Legislative Research Commission Study Committee on the Regulation of Nonpublic and Public Post-Secondary Education met three times in 1984, on January 18, on February 15 and on March 28. During the first two meetings, informational hearings were held and all interested parties were heard. (See Appendix C for a list of witnesses appearing before the Committee and Appendix E for certain of the materials appearing before the Committee.) By the end of the second meeting, the Committee had come to its substantive conclusions. The third meeting was held to approve the draft report for submission to the Legislative Research Commission on April 27, 1984 and to recommend its transmittal to the 1983 General Assembly, 1984 Session. A detailed record of the Committee's meetings is contained in the minutes, on file in the Legislative Library.

The Committee concerned itself with several issues. It first needed to decide whether regulation of all post-secondary degree-granting education, regardless of whether provided by in-state institutions or by out-of-state institutions offering in-state cluster education, and regardless of whether for-profit or nonprofit, continues to be needed. Then it needed to decide whether this regulation could best be provided by a governmental licensing process, as in present law, or whether it could better and more fairly be provided by a non-governmental, voluntary accreditation process. If accreditation were found to provide adequate regulation, the Committee would then need to decide which accrediting bodies would be relied on. If licensing, more adequately defined so as to cure the jurisdictional defect found by the Nova court

to bar State licensing of out-of-state institutions, were found necessary, the Committee would then need to decide whether to accept the concept of House Bill 988, leaving the Board of Governors of The University of North Carolina as the State's designated licensing agent.

The Committee carefully considered these issues and made formal findings and a formal recommendation, including a legislative proposal, which proposal incorporates the substance of House Bill 988, with certain qualifying amendments adopted at the last meeting.

F I N D I N G S

Pursuant to the direction of Section 1 (9) of the 1983 Session Laws, Chapter 905 (HB 1142), the Legislative Research Commission Study Committee on the Regulation of Nonpublic and Public Post-Secondary Education makes the following findings:

FINDING 1. THE NEED FOR REGULATION OF NONPUBLIC AS WELL AS PUBLIC POST-SECONDARY DEGREE-GRANTING EDUCATION HAS GROWN DURING RECENT YEARS. The Committee finds that more and more of the citizens of this State are seeking some kind of post-secondary degree. Employers are becoming increasingly reliant on the achievement of these degrees to determine whether the achievers should be employed or promoted. The proliferation of for-profit and nonprofit educational institutions in recent years, offering not only traditional on-campus but also innovative off-campus "field" education, has substantially increased the need for some guarantee to all the citizens of this State that all post-secondary degree-granting institutions that are educationally active in this State meet the appropriate minimal educational standards and offer what they purport to offer.

FINDING 2. THE GUARANTEE OF MINIMAL STANDARDS THAT NEEDS TO BE GIVEN BY PROPER REGULATION MUST EXTEND TO EDUCATION IN THIS STATE BY OUT-OF-STATE INSTITUTIONS OFFERING IN-STATE "FIELD-BASED" EDUCATION AS WELL AS BY IN-STATE INSTITUTIONS. The Committee finds that the citizens of this State need a guarantee that all post-secondary degree education received in this State meets certain minimal standards regardless of whether that education is offered by an in-State institution or by an out-of-state institution offering in-state field-based education. The

degree received will often be treated as the competitive equivalent of the same sort of degree regardless of which sort of institution it was received from. Students must be assured that similar degrees represent the achievement of similar educational goals of similar satisfactory quality. Employers must be able to evaluate all similar degrees as equivalent employment and promotion criteria. The public, which places great trust in the post-secondary degree process in general and in the holders of all post-secondary degrees, must be guaranteed that it is well-founded in so doing.

FINDING 3. MANDATORY GOVERNMENTAL LICENSING RATHER THAN VOLUNTARY NON-GOVERNMENTAL ACCREDITATION IS THE ONLY PROCESS WHICH CAN PRODUCE THE REQUIRED GUARANTEE THAT INSTITUTIONS ARE MEETING CERTAIN NECESSARY MINIMUM STANDARDS AND ARE THUS PROVIDING QUALITY EDUCATION. The Committee finds that voluntary non-governmental accreditation and mandatory governmental licensing are both essential processes and necessarily complementary but that mandatory governmental licensing must come first, as a governmental guarantee to all the State's citizens that the particular institution is meeting minimal educational standards. Only after the licensing process is complete can voluntary non-governmental accreditation, functioning as an institutional self-improvement process, begin. Accreditation should never be substituted for licensure.

FINDING 4. THE SUBSTANCE OF HOUSE BILL 988 ACCOMPLISHES THE ESTABLISHED INTENT OF THE GENERAL ASSEMBLY TO PROVIDE FOR LICENSING OF POST-SECONDARY DEGREE-GRANTING EDUCATION NOT OTHERWISE REGULATED, AND REDRAWS THE EXISTING LAW SO AS TO MAKE THE PATTERN OF LICENSING REGULATION APPLY TO ALL SUCH EDUCATION REGARDLESS OF THE LOCATION OR THE TYPE OF INSTITUTION GRANTING THE DEGREE. The Committee finds that

the substance of House Bill 988 provides that mandatory governmental licensing guarantee to the citizens of this State that it considers essential, leaving the Board of Governors of The University of North Carolina as the State's designated licensing agent. House Bill 988 cures the jurisdictional defect that caused the North Carolina Supreme Court to find that present G.S. 116-15 does not permit the State to regulate out-of-state institutions that "confer" their degrees out-of-state even though all other educational activity takes place in this State. This licensing regulation will not cause undue financial or administrative hardship to institutions coming under the licensing requirement, nor will it squelch needed educational innovation. It will best protect all the citizens of this State by guaranteeing that all degrees are of substantive value and by guaranteeing that degree holders of similar post-secondary degrees from any institution that is educationally active in this State are properly competitive, regardless of the location or the type of the institution.

RECOMMENDATIONS

RECOMMENDATION 1. THE GENERAL ASSEMBLY SHOULD AMEND G.S. 116-15 TO PROVIDE FOR LICENSURE OF ALL INSTITUTIONS OF DEGREE GRANTING, NONPUBLIC AS WELL AS PUBLIC POST-SECONDARY EDUCATION THAT CONDUCT EDUCATIONAL ACTIVITY IN THIS STATE, UNLESS SPECIFICALLY EXEMPTED. (LEGISLATIVE PROPOSAL 1.)

LEGISLATIVE PROPOSAL I

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE STATUTE UNDER WHICH NONPUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS MAY BE LICENSED TO CONDUCT POST-SECONDARY DEGREE ACTIVITY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-15 is rewritten to read as follows:

"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.--The General Assembly of North Carolina in recognition of the importance of higher education and of the particular significance attached to the personal credentials accessible through higher education and in consonance with statutory law of this State making unlawful any 'unfair or deceptive acts or practices in the conduct of any trade or commerce,' hereby declares it the policy of this State that all institutions conducting post-secondary degree activity in this State that are not subject to G.S. Chapter 115 or 115D, nor some other section of G.S. Chapter 116, shall be subject to licensure under this section except as the institution or a particular activity of the institution may be exempted from licensure by one or another provision of this section.

(a) Definitions. As used in this section the following terms are defined as set forth in this subsection:

(1) 'Post-secondary degree'. A credential conferring

on the recipient thereof the title of 'Associate', 'Bachelor', 'Master', or 'Doctor', or an equivalent title, signifying educational attainment based on (i) study, (ii) a substitute for study in the form of equivalent experience or achievement testing, or (iii) a combination of the foregoing; provided, that 'post-secondary degree' shall not include any honorary degree or other so-called 'unearned' degree.

(2) 'Institution'. Any sole proprietorship, group, partnership, venture, society, company, corporation, school, college, or university that engages in, purports to engage in, or intends to engage in any type of post-secondary degree activity.

(3) 'Post-secondary degree activity'. Any of the following is 'post-secondary degree activity':

(i) Awarding a post-secondary degree:

(ii) Conducting or offering study, experience, or testing for an individual or certifying prior successful completion by an individual of study, experience, or testing, under the representation that the individual successfully completing the study, experience, or testing will be awarded therefor, at least in part, a post-secondary degree.

(4) 'Publicly registered name'. The name of any sole

proprietorship, group, partnership, venture, society, company, corporation, school, college, or institution that appears as the subject of any Articles of Incorporation, Articles of Amendment, or Certificate of Authority to Transact Business or to Conduct Affairs, properly filed with the Secretary of State of North Carolina and currently in force.

(5) 'Board'. The Board of Governors of The University of North Carolina.

(b) Required license. No institution subject to this section shall undertake post-secondary degree activity in this State, whether through itself or through an agent, unless the institution is licensed as provided in this section to conduct post-secondary degree activity or is exempted from licensure under this section as hereinafter provided.

(c) Exemption from licensure. Any institution that has been continuously conducting post-secondary degree activity in this State under the same publicly registered name or series of publicly registered names since July 1, 1972, shall be exempted from the provisions for licensure under this section upon presentation to the Board of information acceptable to the Board to substantiate such post-secondary degree activity and public registration of the institution's names. Any institution that, pursuant to a predecessor statute to this subsection, had presented to the Board proof of activity and registration such that

the Board granted exemption from licensure, shall continue to enjoy such exemption without further action by the Board.

(d) Exemption of institutions relative to religious education. Notwithstanding any other provision of this section, no institution shall be subject to licensure under this section with respect to post-secondary degree activity based upon a program of study, equivalent experience, or achievement testing the institutionally planned objective of which is the attainment of a degree in theology, divinity, or religious education or in any other program of study, equivalent experience, or achievement testing that is designed by the institution primarily for career preparation in a religious vocation. This exemption shall be extended to any institution with respect to each program of study, equivalent experience, and achievement test that the institution demonstrates to the satisfaction of the Board should be exempted under this subsection.

(e) Post-secondary degree activity within the military. To the extent that an institution undertakes post-secondary degree activity on the premises of military posts or reservations located in this State for military personnel stationed on active duty there, or their dependents, the institution shall be exempt from the licensure requirements of this section.

(f) Standards for licensure. To receive a license to conduct post-secondary degree activity in this State, an institution shall satisfy the Board that the institution has met the following standards:

(1) That the institution is State-chartered. If

chartered by a state or sovereignty other than North Carolina, the institution shall also obtain a Certificate of Authority to Transact Business or to Conduct Affairs in North Carolina issued by the Secretary of State of North Carolina;

(2) That the institution has been conducting post-secondary degree activity in a state or sovereignty other than North Carolina during consecutive, regular-term, academic semesters, exclusive of summer sessions, for at least the two years immediately prior to submitting an application for licensure under this section, or has been conducting with enrolled students, for a like period in this State or some other state or sovereignty, post-secondary educational activity not related to a post-secondary degree; provided, that an institution may be temporarily relieved of this standard under the conditions set forth in subsection (i), below;

(3) That the substance of each course or program of study, equivalent experience, or achievement test is such as may reasonably and adequately achieve the stated objective for which the study, experience, or test is offered or to be certified as successfully completed;

(4) That the institution has adequate space, equipment, instructional materials, and personnel

available to it to provide education of good quality;

(5) That the education, experience, and other qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive, or will be reliably certified to have received, education consistent with the stated objectives of any course or program of study, equivalent experience, or achievement test offered by the institution;

(6) That the institution provides students and other interested persons with a catalog or brochure containing information describing the substance, objectives, and duration of the study, equivalent experience, and achievement testing offered, a schedule of related tuition, fees, and all other necessary charges and expenses, cancellation and refund policies, and such other material facts concerning the institution and the program or course of study, equivalent experience, and achievement testing as are reasonably likely to affect the decision of the student to enroll therein, together with any other disclosures that may be specified by the Board; and that such information is provided to prospective students prior to enrollment;

(7) That upon satisfactory completion of study, equivalent experience, or achievement test, the student is given appropriate educational credentials by the institution, indicating that the relevant study, equivalent experience, or achievement testing has been satisfactorily completed by the student;

(8) That records are maintained by the institution adequate to reflect the application of relevant performance or grading standards to each enrolled student;

(9) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises of the institution;

(10) That the institution is financially sound and capable of fulfilling its commitments to students;

(11) That the institution, through itself or those with whom it may contract, does not engage in promotion, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair;

(12) That the chief executive officer, trustees, directors, owners, administrators, supervisors, staff, instructors, and employees of the institution have no record of unprofessional

conduct or incompetence that would reasonably call into question the overall quality of the institution;

(13) That the student housing owned, maintained, or approved by the institution, if any, is appropriate, safe, and adequate;

(14) That the institution has a fair and equitable cancellation and refund policy; and

(15) That no person or agency with whom the institution contracts has a record of unprofessional conduct or incompetence that would reasonably call into question the overall quality of the institution.

(g) Review of licensure. Any institution that acquires licensure under this section shall be subject to review by the Board to determine that the institution continues to meet the standard for licensure of subsection (f), above. Review of such licensure by the Board shall always occur if the institution is legally reconstituted, or if ownership of a preponderance of all the assets of the institution changes pursuant to a single transaction or agreement or a recognizable sequence of transactions or agreements, or if two years has elapsed since licensure of the institution was granted by the Board.

Notwithstanding the foregoing paragraph, if an institution has continued to be licensed under this section and continuously conducted post-secondary degree activity in this State under the same publicly registered name or series of publicly registered names since July 1, 1979, or for six consecutive years, whichever

is the shorter period, and is accredited by an accrediting commission recognized by the Council on Post-Secondary Accreditation, such institution shall be subject to licensure review by the Board every six years to determine that the institution continues to meet the standard for licensure of subsection (f), above. However, should such an institution cease to maintain the specified accreditation, become legally reconstituted, have ownership of a preponderance of all its assets transferred pursuant to a single transaction or agreement or a recognizable sequence of transactions or agreements to a person or organization not licensed under this section, or fail to meet the standard for licensure of subsection (f), above, then the institution shall be subject to licensure review by the Board every two years until a license to conduct post-secondary degree activity and the requisite accreditation have been restored for six consecutive years.

(h) Denial and revocation of licensure. Any institution seeking licensure under the provisions of this section that fails to meet the licensure requirements of this section shall be denied a license to conduct post-secondary degree activity in this State. Any institution holding a license to conduct post-secondary degree activity in this State that is found by the Board of Governors not to satisfy the licensure requirements of this section shall have its license to conduct post-secondary degree activity in this State revoked by the Board; provided, that the Board of Governors may continue in force the license of an institution deemed by the Board to be making substantial and expeditious progress toward remedying its licensure deficiencies.

(i) Regulatory authority in the Board. The Board shall have authority to establish such rules, regulations, and procedures as it may deem necessary or appropriate to effect the provisions of this section. Such rules, regulations, and procedures may include provision for the granting of an interim permit to conduct post-secondary degree activity in this State to an institution seeking licensure but lacking the two-year period of activity prescribed by subsection (f)(2), above.

(j) Enforcement authority in the Attorney General. The Board shall call to the attention of the Attorney General, for such action as he may deem appropriate, any institution failing to comply with the requirements of this section.

(k) Severability. The provisions of this section are severable, and, if any provision of this section is declared unconstitutional or invalid by the courts, such declaration shall not affect the validity of the section as a whole or any provision other than the provision so declared to be unconstitutional or invalid."

Sec. 2. This act shall become effective on and after October 1, 1984.

W1-63

APPENDICES

APPENDIX A

STATE OF NORTH CAROLINA

LEGISLATIVE RESEARCH COMMISSION

STATE LEGISLATIVE BUILDING

RALEIGH 27611

STUDY COMMITTEE ON THE

REGULATION OF NONPUBLIC AND PUBLIC

POST-SECONDARY EDUCATIONAL INSTITUTIONS

LRC Member Responsible for Study:

Representative John T. Church
420 Woodland Road
Henderson, N. C. 27536

Committee Cochairmen:

Representative Betty D. Thomas
D-1 Candlewood Square
Concord, N. C. 28025

Senator Lura Tally
3100 Tallywood Drive
Fayetteville, N. C. 28303

Committee Members:

Representative Anne Barnes
313 Severin Street
Chapel Hill, N. C. 27514

Senator T. Cass Ballenger
867 20th Avenue Drive, N.W.
Hickory, N. C. 28601

Dr. E. K. Fretwell, Jr.
Chancellor
University of North Carolina
at Charlotte
Charlotte, N. C. 28223

Representative Charles Woodard
Post Office Box 10273
Goldsboro, N. C. 27532

Representative Gordon H. Greenwood
Box 487
Black Mountain, N. C. 28711

Mr. Carl Settle, President
Rutledge College, Inc.
2600 First Union Plaza
Charlotte, N. C. 28282

Dr. H. F. Robinson
Chancellor
Western Carolina University
Cullowhee, N. C. 28721

Senator Vernon E. White
Post Office Box 41
Winterville, N. C. 28590

APPENDIX B

AUTHORIZING LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1983

RATIFIED BILL

RESOLUTION 33
HOUSE JOINT RESOLUTION 988

A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE REGULATION OF NONPUBLIC AND PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS.

Whereas, it has been the legislative policy of this State since at least 1923 to require that nonpublic educational institutions seeking to confer degrees in North Carolina obtain a license therefor; and

Whereas, in recent years new kinds of educational programs and new types of organizational structures have begun to be used by institutions seeking to confer degrees; and

Whereas, in recent months news media across the nation have reported abuse of the degree-granting process and fraud in the conduct of degree programs of institutions of higher education; and

Whereas, since 1923 there has been no thorough legislative review of the provisions of G.S. 116-15, the statute by which licensure to confer degrees is required;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Legislative Research Commission is authorized to study the regulation of nonpublic and public post-secondary educational institutions which engage in "post-secondary degree activity" as defined in HB 988 introduced in the 1983 Session of the General Assembly. The Commission may make an interim report to the 1984 Session of the General Assembly and shall make a final report to the 1985 Session of the General Assembly.

Sec. 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of June, 1983.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1983
RATIFIED BILL

CHAPTER 905
HOUSE BILL 1142

AN ACT AUTHORIZING STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION AND BY THE COMMISSION ON CHILDREN WITH SPECIAL NEEDS AND MAKING TECHNICAL AMENDMENTS RELATING THERETO.

The General Assembly of North Carolina enacts:

Section 1. The Legislative Research Commission may study the topics listed below. Listed with each topic is the 1983 bill or resolution that originally proposed the study and the name of the sponsor. The Commission may consider the original bill or resolution in determining the nature, scope and aspects of the study. The topics are:

(1) Continuation of the Study of Revenue Laws (H.J.R. 16 - Lilley); and the ramifications, if enacted, of H.B. 746, Appraisal of Subdivided Tract (Auman) and H.B. 1250, No Intangible Tax/Income Surtax (Auman),

(2) Continuation of the Study on the Problems of the Aging (H.J.R. 44 - Economos; S.J.R. 16 - Gray),

(3) Continuation of the Study on Insurance Regulation (H.B. 63 - Seymour) and Insurance Laws and Regulation of Insurance Industry (H.B. 1243 - Hightower),

(4) Teaching of Computer Literacy in the Public Schools and Community Colleges (H.J.R. 191 - Berry) and the Continuation of Study of College Science Equipment (H.J.R. 898 - Enloe),

(5) Adequacy of State Management of Large-Scale Land Clearing and Peat Mining (H.J.R. 220 - Evans),

(6) Adequacy of Existing Water Pollution Control Programs to Improve and Protect Water Quality in the State (H.J.R. 232 - Evans),

(7) Marketing of Seafood by Fishermen (H.J.R. 896 - Chapin),

(8) Continuation of Study on the Economic Social and Legal Problems and Needs of Women (H.J.R. 904 - Easterling; S.J.R. 329 - Marvin),

(9) Regulation of Nonpublic and Public Post-Secondary Educational Institutions (Joint Resolution 33 (H.J.R. 988 - Thomas)),

(10) Readable Insurance Policies (H.B. 1069 - Ballance),

(11) State Government Risk Management (H.J.R. 1083 - Seymour),

(12) Biotechnology Development (H.B. 1122 - Etheridge, Bobby and H.J.R. 1282 - Etheridge, Bobby; S.J.R. 620 - Hancock),

(13) Continuation of Study of the State's Interest in Railroad Property (H.B. 1142 - Hunt),

(14) Restricting Driving by Minors (H.J.R. 1149 - J. Jordan),

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(15) Health Professionals (H.J.R. 1194 - Diamont),
(16) Water Quality in Haw River and B. Everett Jordan Reservoir (H.J.R. 1257 - Hackney),
(17) Regulation of Alcoholic Beverages on State Property (H.J.R. 1292 - Clark),
(18) Disposition of Animals by Animal Shelters and Pounds (H.J.R. 1309 - Stamey),
(19) Boards, Commissions, and Councils in the Executive Branch (H.J.R. 1321 - Hunt),
(20) Feasibility of a Food Distribution Facility on Dix Farm Property in Raleigh (H.J.R. 1334 - James),
(21) Implementation of Identification and Labelling of Toxic or Hazardous Substances as Proposed by House Bill 1339 (Payne),
(22) Water Resources Issues Involving North Carolina and Virginia (H.J.R. 1404 - Church),
(23) Investment Guidelines for Eleemosynary Institutions and Funds (H.J.R. 1423 - Musselwhite),
(24) Child Support Collection Procedures (H.J.R. 1439 - Easterling; S.J.R. 675 - Woodard, W.),
(25) Contamination of Unpackaged Foods (H.J.R. 1441 - Stamey),
(26) Legislative Communications Confidentiality (H.R. 1461 - Miller),
(27) Continuation of the Study of Information Processing Resources in State Government (S.J.R. 44 - Alford),
(28) Regulation and Taxation of Banks, Savings and Loans and Credit Unions (S.J.R. 381 - Edwards of Caldwell),
(29) District Attorney Standards (S.B. 496 - Hipps),
(30) Cost of Providing Attorneys and Guardians Ad Litem to Indigents (S.J.R. 643 - Swain),
(31) Public Health Facility Laws (S.J.R. 656 - Hancock), and Review of Certificate of Need Procedures (H.J.R. 1294 - Economos),
(32) Life Care Arrangements (S.J.R. 657 - Hancock),
(33) Worthless Checks (S.J.R. 661 - Thomas of Henderson),
(34) State-owned Rental Housing as contained in Section 2 of this act,
(35) User Fees at State-owned Facilities, as contained in Section 3 of this act,
(36) Motorboat Titles and Liability Insurance, as contained in Section 4 of this act,
(37) Motor Vehicle Inspection Program, as contained in Section 5 of this act,
(38) Continuation of the Study of Day Care (H.J.R. 594 - Colton),
(39) Continuation of the Study on Twelfth Grade (H.J.R. 753 - Mauney; S.J.R. 343 - Tally),
(40) Procedure for Incorporating Municipalities (S.J.R. 445 - J. Edwards),
(41) Solar Law (S.J.R. 670 - Walker),

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(42) Statutory Liens (S.J.R. 680 - Edwards of Caldwell),

(43) In-service Training of Teachers in North Carolina History, the American Economic System, Free Enterprise Concepts, and Legal Topics (H.B. 1281 - Foster).

Sec. 2. State-owned Rental Housing. (a) The Legislative Research Commission is authorized to conduct a study of all State-owned rental housing during the 1983-84 fiscal year and to recommend a comprehensive statewide rental policy, to be administered by the Department of Administration, to the 1984 Session of the General Assembly. This study shall be conducted in consultation with the department that owns the housing. In conducting this study, the Commission shall first determine the amount of nonessential rental housing currently owned by the State using the following criteria: The geographic location of the State property on which the housing is located and its proximity to alternative privately owned housing; the amount of time that would be required for employees to arrive at the State property on which housing is now located in the event of an emergency; the amount of security necessary for State property that is now being provided by State employees living in State-owned rental housing; and any other benefits to the State for employees to occupy said housing: The Commission shall recommend the disposition of nonessential rental property by one of three means: sale of the housing and property on which it is located; sale of the housing unit only with the stipulation that the house be removed from State property; and conversion of the housing unit to an alternative use.

(b) It is the policy of the State of North Carolina that the State provide rental housing only in cases in which an essential State purpose is served. Nothing in these sections shall be construed to mean that State departments may not continue to divest themselves of nonessential rental housing during the course of the Legislative Research Commission study.

Sec. 3. User Fees. The Legislative Research Commission is authorized to study the potential for user charges and admission fees at State-owned cultural, recreational and historical facilities. The study may cover museums, historic sites, marine resource centers as well as other facilities. The Legislative Research Commission may make an interim report to the 1984 Regular Session of the 1983 General Assembly and may make a final report to the 1985 General Assembly.

Sec. 4. Motorboat Titles and Liability Insurance. The Legislative Research Commission of the General Assembly is authorized to study the issue of motorboat titles and liability insurance. The study may include start-up and administrative costs, potential revenues, phase-in plans, financial institution requirements, etc. The Commission may report to the 1984 Session.

Sec. 5. Motor Vehicle Inspection Program Study. The Legislative Research Commission may study the effectiveness of the motor vehicle inspection program required by Article 3A of Chapter 20 of the General Statutes. The study may consider, among other aspects, the impact on highway safety, cost

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effectiveness of the program, and probable impact of eliminating part or all of the program.

Sec. 6. For each of the topics the Legislative Research Commission decides to study, the Commission may report its findings, together with any recommended legislation, to the 1984 Session of the General Assembly or to the 1985 General Assembly, or the Commission may make an interim report to the 1984 Session and a final report to the 1985 General Assembly.

Sec. 7. G.S. 120-30.17 is amended by adding two new subsections to read:

"(7) to obtain information and data from all State officers, agents, agencies and departments, while in discharge of its duty, pursuant to the provisions of G.S. 120-19 as if it were a committee of the General Assembly.

(8) to call witnesses and compel testimony relevant to any matter properly before the Commission or any of its committees. The provisions of G.S. 120-19.1 through G.S. 120-19.4 shall apply to the proceedings of the Commission and its committees as if each were a joint committee of the General Assembly. In addition to the other signatures required for the issuance of a subpoena under this subsection, the subpoena shall also be signed by the members of the Commission or of its committee who vote for the issuance of the subpoena."

Sec. 8. Section 1 of Chapter 1372, Session Laws of 1981, is amended by deleting "as authorized in Section 2 of Resolution 61, Session Laws of 1981".

Sec. 9. Section 1(3) of Chapter 1372, Session Laws of 1981, is amended by deleting "1983 Session", and inserting in lieu thereof "1983 and 1985 Sessions".

Sec. 10. G.S. 124-5 is amended by deleting "June 1, 1983", and inserting in lieu thereof "the date of convening of the 1985 Regular Session of the General Assembly".

Sec. 11. The last sentence of G.S. 124-5 is amended by deleting "11-month period", and inserting in lieu thereof "period ending on convening of the 1985 Regular Session."

Sec. 12. Deaf/Blind School Move--Commission on Children with Special Needs. (a) The Commission on Children with Special Needs, established by Article 12 of Chapter 120 of the General Statutes, may study the issue of transferring the State schools for the Deaf and the Governor Morehead School for the Blind to the jurisdiction of the State Board of Education.

(b) The Commission may make a final report to the Second Session of the 1983 General Assembly. (H.J.R. 246 - Fenner)

Sec. 13. Bills and Resolution References. The listing of the original bill or resolution in this act is for references purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

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Sec. 14. This act is effective upon ratification.
In the General Assembly read three times and ratified, this the 21st day of July, 1983.

JAMES C. GREEN

James C. Green
President of the Senate

LISTON B. RAMSEY

Liston B. Ramsey
Speaker of the House of Representatives

APPENDIX C

WITNESSES APPEARING BEFORE THE COMMITTEE

Dr. Roy Carroll
Vice President for Planning
The University of North Carolina
General Administration
Chapel Hill, N. C.

Mr. David Edwards
Special Assistant for Legal Affairs
The University of North Carolina
Chapel Hill, N. C.

Mr. John Henley, President
N. C. Association of Independent Colleges
and Universities
Raleigh, N. C.

Mr. James W. Burnette, President
Hardbarger Junior College of Business
Raleigh, N. C.

Mr. Bob Bode
Attorney at Law
Raleigh, N. C.
(General Counsel for the N. C. Association of
Independent Colleges and Schools)

Dr. Gerald Scroufe
Nova University
Fort Lauderdale, Fla.

Mr. Hugh Stevens
Attorney at Law
Raleigh, N. C.
(Counsel for Nova University)

Mr. Bernard Allen
North Carolina Association of Educators
Raleigh, N. C.

WITNESSES APPEARING BEFORE THE COMMITTEE

The Honorable Robert W. Scott
President
North Carolina Department of Community Colleges
Raleigh, N. C.

Dr. Craig Phillips
Superintendent
North Carolina Department of Public Instruction
Raleigh, N. C.

Dr. Grover Andrews
Assistant Vice-Chancellor for Extension and
Public Service
North Carolina State University
Raleigh, N. C.

APPENDIX D
CONSIDERED LEGISLATION

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1983

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HOUSE BILL 988
Second Edition Engrossed 5/12/83

Short Title: Nonpublic Educational Institutions. (Public)

Sponsors: Representatives Thomas; Miller.

Referred to: Higher Education.

May 2, 1983

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE STATUTE UNDER WHICH NONPUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS MAY BE LICENSED TO CONDUCT POST-SECONDARY DEGREE ACTIVITY IN NORTH CAROLINA.

The General Assembly of North Carolina enacts:

Section 1. G.S. 116-15 is hereby rewritten to read as follows:

"§ 116-15. Licensing of certain nonpublic post-secondary educational institutions.--The General Assembly of North Carolina in recognition of the importance of higher education and of the particular significance attached to the personal credentials accessible through higher education and in consonance with statutory law of this State making unlawful any 'unfair or deceptive acts or practices in the conduct of any trade or commerce,' hereby declares it the policy of this State that all institutions conducting post-secondary degree activity in this State that are not subject to G.S. Chapter 115 or 115D, nor some other section of G.S. Chapter 116, shall be subject to licensure under this section except as the institution or a particular

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activity of the institution may be exempted from licensure by one or another provision of this section.

(a) Definitions. As used in this section the following terms are defined as set forth in this subsection:

(1) 'Post-secondary degree'. A credential conferring on the recipient thereof the title of 'Associate', 'Bachelor', 'Master', or 'Doctor', or an equivalent title, signifying educational attainment based on (i) study, (ii) a substitute for study in the form of equivalent experience or achievement testing, or (iii) a combination of the foregoing; provided, that 'post-secondary degree' shall not include any honorary degree or other so-called 'unearned' degree.

(2) 'Institution'. Any sole proprietorship, group, partnership, venture, society, company, corporation, school, college, or university that engages in, purports to engage in, or intends to engage in any type of post-secondary degree activity.

(3) 'Post-secondary degree activity'. Any of the following is 'post-secondary degree activity':

(i) Awarding a post-secondary degree;

(ii) Conducting or offering study, experience, or testing for an individual or certifying prior successful completion by an individual of study, experience, or testing, under the

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representation that the individual successfully completing the study, experience, or testing will be awarded therefor, at least in part, a post-secondary degree.

(4) 'Publicly registered name'. The name of any sole proprietorship, group, partnership, venture, society, company, corporation, school, college, or institution that appears as the subject of any Articles of Incorporation, Articles of Amendment, or Certificate of Authority to Transact Business or to Conduct Affairs, properly filed with the Secretary of State of North Carolina and currently in force.

(5) 'Board'. The Board of Governors of The University of North Carolina.

(b) Required license. No institution subject to this section shall undertake post-secondary degree activity in this State, whether through itself or through an agent, unless the institution is licensed as provided in this section to conduct post-secondary degree activity or is exempted from licensure under this section as hereinafter provided. [H-Any person violating this subsection shall be guilty of a misdemeanor.]

(c) Exemption from licensure. Any institution that has been continuously conducting post-secondary degree activity in this State under the same publicly registered name or series of publicly registered names since July 1, 1972, shall be exempted from the provisions for licensure under this section upon

presentation to the Board of information acceptable to the Board to substantiate such post-secondary degree activity and public registration of the institution's names. [H-Any institution that, pursuant to a predecessor statute to this subsection, had presented to the Board proof of activity and registration such that the Board granted exemption from licensure, shall continue to enjoy such exemption without further action by the Board.]

(d) Exemption of institutions relative to religious education. Notwithstanding any other provision of this section, no institution shall be subject to licensure under this section with respect to post-secondary degree activity based upon a program of study, equivalent experience, or achievement testing the institutionally planned objective of which is the attainment of a degree in theology, divinity, or religious education or in any other program of study, equivalent experience, or achievement testing that is designed by the institution primarily for career preparation in a religious vocation. This exemption shall be extended to any institution with respect to each program of study, equivalent experience, and achievement test that the institution demonstrates to the satisfaction of the Board should be exempted under this subsection.

(e) Post-secondary degree activity within the military. To the extent that an institution undertakes post-secondary degree activity on the premises of military posts or reservations located in this State for military personnel stationed on active duty there, or their dependents, the institution shall be exempt from the licensure requirements of this section.

(f) Standards for licensure. To receive a license to conduct post-secondary degree activity in this State, an institution shall satisfy the Board that the institution has met the following standards:

(1) That the institution is State-chartered. If chartered by a state or sovereignty other than North Carolina, the institution shall also obtain a Certificate of Authority to Transact Business or to Conduct Affairs in North Carolina issued by the Secretary of State of North Carolina;

(2) That the institution has been conducting post-secondary degree activity in a state or sovereignty other than North Carolina during consecutive, regular-term, academic semesters, exclusive of summer sessions, for at least the two years immediately prior to submitting an application for licensure under this section, or has been conducting with enrolled students, for a like period in this State or some other state or sovereignty, post-secondary educational activity not related to a post-secondary degree; provided, that an institution may be temporarily relieved of this standard under the conditions set forth in subsection (i), below;

(3) That the substance of each course or program of study, equivalent experience, or achievement test is such as may reasonably and adequately achieve

the stated objective for which the study, experience, or test is offered or to be certified as successfully completed;

(4) That the institution has adequate space, equipment, instructional materials, and personnel available to it to provide education of good quality;

(5) That the education, experience, and other qualifications of directors, administrators, supervisors, and instructors are such as may reasonably insure that the students will receive, or will be reliably certified to have received, education consistent with the stated objectives of any course or program of study, equivalent experience, or achievement test offered by the institution;

(6) That the institution provides students and other interested persons with a catalog or brochure containing information describing the substance, objectives, and duration of the study, equivalent experience, and achievement testing offered, a schedule of related tuition, fees, and all other necessary charges and expenses, cancellation and refund policies, and such other material facts concerning the institution and the program or course of study, equivalent experience, and achievement testing as are reasonably likely to affect the decision of the student to enroll

therein, together with any other disclosures that may be specified by the Board; and that such information is provided to prospective students prior to enrollment;

(7) That upon satisfactory completion of study, equivalent experience, or achievement test, the student is given appropriate educational credentials by the institution, indicating that the relevant study, equivalent experience, or achievement testing has been satisfactorily completed by the student;

(8) That records are maintained by the institution adequate to reflect the application of relevant performance or grading standards to each enrolled student;

(9) That the institution is maintained and operated in compliance with all pertinent ordinances and laws, including rules and regulations adopted pursuant thereto, relative to the safety and health of all persons upon the premises of the institution;

(10) That the institution is financially sound and capable of fulfilling its commitments to students;

(11) That the institution, through itself or those with whom it may contract, does not engage in promotion, sales, collection, credit, or other practices of any type which are false, deceptive, misleading, or unfair;

(12) That the chief executive officer, trustees, directors, owners, administrators, supervisors, staff, instructors, and employees of the institution have no record of unprofessional conduct or incompetence that would reasonably call into question the overall quality of the institution;

(13) That the student housing owned, maintained, or approved by the institution, if any, is appropriate, safe, and adequate;

(14) That the institution has a fair and equitable cancellation and refund policy; and

(15) That no person or agency with whom the institution contracts has a record of unprofessional conduct or incompetence that would reasonably call into question the overall quality of the institution.

(g) Review of licensure. Any institution that acquires licensure under this section shall be subject to review by the Board to determine that the institution continues to meet the standard for licensure of subsection (f), above. Review of such licensure by the Board shall always occur if the institution is legally reconstituted, or if ownership of a preponderance of all the assets of the institution changes pursuant to a single transaction or agreement or a recognizable sequence of transactions or agreements.

(h) Denial and revocation of licensure. Any institution seeking licensure under the provisions of this section that fails

to meet the licensure requirements of this section shall be denied a license to conduct post-secondary degree activity in this State. Any institution holding a license to conduct post-secondary degree activity in this State that is found by the Board of Governors not to satisfy the licensure requirements of this section shall have its license to conduct post-secondary degree activity in this State revoked by the Board; provided, that the Board of Governors may continue in force the license of an institution deemed by the Board to be making substantial and expeditious progress toward remedying its licensure deficiencies.

(i) Regulatory authority in the Board. The Board shall have authority to establish such rules, regulations, and procedures as it may deem necessary or appropriate to effect the provisions of this section. Such rules, regulations, and procedures may include provision for the granting of an interim permit to conduct post-secondary degree activity in this State to an institution seeking licensure but lacking the two-year period of activity prescribed by subsection (f)(2), above.

(j) Enforcement authority in the Attorney General. The Board shall call to the attention of the Attorney General, for such action as he may deem appropriate, any institution failing to comply with the requirements of this section.

(k) Severability. The provisions of this section are severable, and, if any provision of this section is declared unconstitutional or invalid by the courts, such declaration shall not affect the validity of the section as a whole or any provision other than the provision so declared to be

unconstitutional or invalid."

Sec. 2. This act is effective upon ratification.

APPENDIX E

MATERIAL SUBMITTED TO THE COMMITTEE

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE SERVICES OFFICE
2129 STATE LEGISLATIVE BUILDING
RALEIGH 27611

GEORGE R HALL JR.
LEGISLATIVE SERVICES OFFICER (ACTING)

LEGISLATIVE SERVICES OFFICE
TELEPHONE: 733-7044
ADMINISTRATIVE DIVISION
TELEPHONE: 733-7044
FISCAL RESEARCH DIVISION
TELEPHONE: 733-4910
GENERAL RESEARCH DIVISION
TELEPHONE: 733-2578
BILL DRAFTING DIVISION
TELEPHONE: 733-6660

December 28, 1983

MEMORANDUM:

TO: Members of Legislative Research Commission
Committee on Higher Education Regulation

FROM: Susan L. Sabre, Committee Counsel

SUBJECT: Background Materials

Please find enclosed important background materials for the upcoming January 18th meeting. I am enclosing the Board of Governors Guidelines For Interpretation And Implementation and its Rules and Standards For Licensing Non-Public Educational Institutions To Confer Degrees. I am also enclosing H.B. 988 of last session and an outline of the bill.

H.B. 988 was an attempt to rewrite G.S. 116-15 which sets out the licensing procedures for certain nonpublic post-secondary educational institutions. G.S. 116-15 is a legislative acknowledgement that the state has some interest in ensuring its citizens that all post-secondary educational institutions, whether public or nonpublic, meet certain minimal standards. The state's role in ensuring these standards are met by certain nonpublic post-secondary educational institutions not elsewhere regulated has been statutorally delegated to the Board of Governors of The University of North Carolina. G.S. 116-15 has for some years been considered ripe for rewriting. In 1981 a court case, Nova University v. The Board of Governors of The University of North Carolina, decided that G.S. 116-15 did not give the state, and its delegee the Board of Governors, authority to license any institution that confers its degrees outside North Carolina. (Emphasis added.) The court case was decided on this very narrow jurisdictional ground. H.B. 988 attempted to cure this jurisdictional flaw, and, in general, to bring the statute up to date and to make it a cleaner legislative statement of the state's interest in guaranteeing quality education for all its citizens.

The House Committee on Higher Education took up the bill on May 10, 1983. In addition to the committee members, Dr. Roy Carroll, Vice President of Planning for the University of North Carolina System, Dr. John Corey, Assistant Vice President for Student Affairs of the University of North Carolina System, Mr. David Edwards, Legal Assistant to the President of the University of North Carolina System, Mrs. Betsy Bunting, an attorney in the North Carolina Attorney General's Office, Mr. John Henley of the North Carolina Association of Independent Colleges and Universities, Mr. Ron Aycock of the North Carolina Association of County Commissioners, and Ms. Clay Knight of the North Carolina Department of Community Colleges and Technical Institutes, attended and participated in the discussion. The bill was given a favorable report. The bill, as amended, passed the House and went to the Senate.

The Senate Committee on Higher Education met on May 31, 1983 to consider H.B. 988. In addition to speakers present before the House Committee, who emphasized that the court in the Nova case had stated that the law needed to be strengthened concerning institutions that grant degrees in this state, speakers spoke against the bill. Mr. Herschel Shanks, an attorney from Washington, D. C., referred to the bill as an "anti-Nova" bill. He said that Nova University was intended for mid-career professionals, that it offered non-residence programs. He said H.B. 988 was very unwise. Mr. Carl Settle of Rutledge College also spoke against the bill, saying that it needed further study and possible rewriting. On June 7, 1983, the Senate Committee heard from supporters of the bill and from Dr. Craig Phillips, North Carolina Superintendent of Public [illegible], who spoke in opposition. On June 14, 1983, the Senate Committee accepted a committee substitute for H.B. 988 and gave it a favorable report. The committee substitute was a resolution authorizing the Legislative Research Commission to study the issues raised by H.B. 988. I also enclose a copy of the ratified resolution.

Please call me if you have any questions on the background to the study committee. You can reach me at (919) 733-6660. Please bring all these materials with you to the January 18th meeting.

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Enclosures

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Present law

(c) The President, with the approval of the Board, shall appoint an advisory committee composed of representative presidents of the private colleges and universities and may appoint such additional advisory committees as are deemed necessary or desirable. (1971, c. 1244, s. 1.)

CASE NOTES

Stated in Student Bar Ass'n Bd. of Governors v. Byrd, 32 N.C. App. 530, 232 S.E.2d 855 (1977).

§ 116-15. Licensing of nonpublic educational institutions; regulation of degrees.

(a) No nonpublic educational institution created or established in this State after December 31, 1960, by any person, firm, organization, or corporation shall have power or authority to confer degrees upon any person except as provided in this section. For the purposes of this section, the term "created or established in this State" or "established in this State" shall mean, in the case of an institution whose principal office is located outside of North Carolina, the act of issuance by the Secretary of State of North Carolina of a certificate of authority to do business in North Carolina. The Board of Governors shall call to the attention of the Attorney General, for such action as he may deem appropriate any institution failing to comply with the requirements of this section.

(b) The Board of Governors, under such standards as it shall establish, may issue its license to confer degrees in such form as it may prescribe to a nonpublic educational institution established in this State after December 31, 1960, by any person, firm, organization, or corporation; but no nonpublic educational institution established in the State subsequent to that date shall be empowered to confer degrees unless it has income sufficient to maintain an adequate faculty and equipment sufficient to provide adequate means of instruction in the arts and sciences, or in any other recognized field or fields of learning or knowledge.

(c) All nonpublic educational institutions licensed under this section shall file such information with the President as the Board of Governors may direct, and the said Board may evaluate any nonpublic educational institution applying for a license to confer degrees under this section. If any such nonpublic educational institution shall fail to maintain the required standards, the Board shall revoke its license to confer degrees, subject to a right of review of this decision in the manner provided in Chapter 150A of the General Statutes.

(d) The State Board of Community Colleges shall have sole authority to administer and supervise, at the State level, the system of community colleges, technical institutes, and industrial education centers provided in Chapter 115A of the General Statutes, and shall regulate the granting of appropriate awards, two-year degrees, and marks of distinction by those institutions.

(e) The foregoing provisions of this section shall not apply to any seminary, Bible school, Bible college, or similar religious institu-

tion. (1971, c. 1244, s. 1; 1973, c. 1331, s. 3; 1975, c. 268; 1977, c. 563, ss. 1-4; 1979, c. 896, s. 13; 1979, 2nd Sess., c. 1130, s. 1.)

Editor's Note. — Chapter 115A, referred to in this section, was repealed by Session Laws 1979, c. 462. See now Chapter 115D.

CASE NOTES

This section expressly authorizes the Board to license only the conferral of degrees, and not teaching. Nova Univ. v. Board of Governors, 305 N.C. 156, 287 S.E.2d 872 (1982).

Inherent in the power to license degrees is the power to establish minimum criteria which a North Carolina institution must meet in order to be licensed to grant degrees, and this is sufficient power for the Board to ensure that degrees conferred by North Carolina institutions are backed by curricula meeting the minimum standards of quality prescribed by the Board's regulations. Nova Univ. v. Board of Governors, 305 N.C. 156, 287 S.E.2d 872 (1982).

Board Has No Authority to Regulate Out-of-State University. — This section does not authorize the Board of Governors of the University of North Carolina to regulate through a licensing procedure teaching in North Carolina by an out-of-state university when the teaching leads to conferral of academic degrees in Florida and pursuant to Florida law. Nova Univ. v. Board of Governors, 305 N.C. 156, 287 S.E.2d 872 (1982).

§ 116-16. Tax exemption.

The lands and other property belonging to the University of North Carolina shall be exempt from all kinds of public taxation. (Const., art. 5, s. 5; 1789, c. 306, s. 3; P.R.; R.S., vol. 2, p. 428; Code, s. 2614; Rev., s. 4262; C.S., s. 5783; 1971, c. 1244, s. 2.)

Legal Periodicals. — For survey of 1978 law on taxation, see 57 N.C.L. Rev. 1142 (1979).

For a note on the rejection of the "public purpose" requirement for state tax exemption, see 17 Wake Forest L. Rev. 293 (1981).

CASE NOTES

Applied in In re North Carolina Forestry Found., Inc., 35 N.C. App. 414, 242 S.E.2d 492 (1978); In re North Carolina Forestry Found., Inc., 296 N.C. 330, 250 S.E.2d 236 (1979).

Cited in In re North Carolina Forestry Found., Inc., 35 N.C. App. 430, 242 S.E.2d 502 (1978); Roberson v. Dale, 464 F. Supp. 680 (M.D.N.C. 1979).

§ 116-17. Purchase of annuity or retirement income contracts for faculty members, officers and employees.

Notwithstanding any provision of law relating to salaries and/or salary schedules for the pay of faculty members, administrative officers, or any other employees of universities, colleges and institutions of higher learning as named and set forth in this Article, and other State agencies qualified as educational institutions under section 501(c)(3) of the United States Internal Revenue Code, the governing boards of any such universities, colleges and institutions

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The External Doctorate In Education:
Growing Criticism and Crisis

by H. G. Vonk and Robert G. Brown

The popular press is beginning to note some of the anomalies in U.S. external degree programs — particularly Nova University's education doctorate. Mr. Vonk and Mr. Brown fear that both the external and internal doctorates will sink into disgrace if present trends continue.

The external degree field is a very mixed bag of respectability and shabbiness — and perhaps even fraud. Cyril Houle, in his book titled *The External Degree*, traces the birth of this degree all the way back to 1858, when the London External Degree was initiated.[1] The British experience with the degree appears reasonably successful, largely because "instruction was divorced from evaluation and the awarding of credentials." In England today there is a higher failure rate for external degree students than for internal degree students — a result attributed to their differences in preparation. However that may be, everyone is held to the same high standard in England, if not elsewhere.

The foreword to Houle's book, written by the chairman of the British Commission on Non-Traditional Study, warns that there has to be "most careful monitoring" of innovations "and departures from the norm" to make sure that they are truly educative. He notes that "an institution that chooses a nontraditional direction opens itself to extraordinary scrutiny and must ultimately be able to prove the worth of the way it has chosen."[2]

Why all of this caution from a proponent of the external degree? Because there have been serious abuses. The freedom to innovate and change can result in change for the better — or change for the worse. In this country, where instruction is usually not separated from evaluation — perhaps rightly — the opportunities for abuse are dramatically increased. Especially when the concept of the external degree is expanded to include the doctorate.

In *Degrees for Sale*, Lee Porter documented many of the abuses he found in 1972. He also reflected on why some people are so fascinated by a doctorate, even when it is a Brand X doctorate from a mail order college that doesn't even require a high school diploma:

> Do you feel restless at cocktail parties because others don't call you "Doctor"? Have you ever dreamed of being the recipient of a Ph.D. or an Ed.D. or a D.D.?

Porter treated only the general problem of doctoral degrees as merchandise,* while Houle considered only the general proposition of the external degree. It remained for someone else to examine the question that concerns us here, namely, the external doctorate in education. That someone arrived in the person of Richard B. Morland.

It is now five years since Morland's article, "The External Doctorate in Education: Blessing or Blasphemy?" appeared in this journal. In that article, Morland surveyed the rapidly expanding field of nonresident doctoral programs and raised some penetrating questions about their attention, if not their devotion, to quality control and standards.[3] These questions were warmly unappreciated in certain quarters, and Morland had a good many slings and arrows sent in his direction.

Donald P. Mitchell,** then at Nova University, rushed to the defense of external degree programs, specifically Nova University's, with an article titled "Let's Set the Record Straight: A Case for Nova University's External Doctorate in Education." Mitchell disagreed with almost everything Morland said, except for his emphasis on Nova. Mitchell wrote "that this discussion should make Nova University its primary focus, because Nova University is clearly the national leader in the development of this ground-breaking idea and offers the most highly developed and sophisticated external Ed.D. program."[4]

Because of Nova's close identification with the external doctorate, if not preeminence in the field, we will summarize the university's requirements for an external Ed.D. To be admitted, one must be employed in the position one is preparing for — either as a community college instructor or as a school administrator — and have a master's degree from an accredited institution. There is no mention of the usual Graduate Record Examination or grade-point average minimums, although letters of recommendation and the like are necessary.

After admission, one becomes a member of a "cluster" that meets one Saturday a month to study eight study areas or six modules, depending upon the program. Each study area spans a period of three months (or three Saturdays) and is

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H. G. VONK (Florida Atlantic University Chapter) is associate professor of education at Florida Atlantic University, Boca Raton, as is his co-author, ROBERT G. BROWN.

*See David Riesman's recent discussion in which he reflects on the "near total consumer sovereignty" of students and how by "voting with their feet" they can affect the fate of whole departments. This has given great impetus to "open admissions," "open commencement," and grade inflation.[5]

**Mitchell had been the director of Nova's external Educational Leaders program until recently. He told the *Kappan* he left Nova because of difficulties with "internal financial operations within the university," more specifically, he said, because funds were being siphoned from the Educational Leaders program to buttress other divisions within Nova. Mitchell is now president of Research and Service Associates, Inc., a nonprofit consulting firm in Ft. Lauderdale.

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conducted by a senior or associate "national lecturer." The eight study areas take two years (or 24 Saturdays) to complete. The Saturdays are supplemented by independent study and two mandatory one-week summer institutes spread over two years. In 1978 one was held at the Kuilima Hyatt, Hawaii, and another was held at the Diplomat Hotel, Hollywood, Florida. The program's grading is conducted on a pass/no pass basis.

Also, there is a practicum requirement. Each cluster member must complete either three or six practicums — depending upon the program. Essentially, the practicum is an on-the-job intervention project that may "involve research but is not purely a research project." Most practicums may be done in consort with other cluster members, but the "third-year practicum report" or the "major applied research project" — again, depending upon the program — is an individual project that is intended to have an impact on practice. Satisfactory completion of the third-year practicum report or major applied research project typically comes at the end of the program, when the student should be ready to receive the Ed.D.[7]

This is what Nova does and requires, but what is Nova's rationale? We talked with Abraham Fischler, Nova University president, and heard him stress the practical emphasis of the Nova Ed.D. In his view, traditional Ed.D. programs are overstuffed and overrun with far too many theory and research courses, courses that have little to do with a practitioner's day-to-day professional work. At one point he questioned whether education had any real theory of its own anyhow.

Parenthetically, it is interesting to read David Riesman's discussion of university "locals" or "home-guarders" who are more concerned with the nuts-and-bolts service functions than with research or "intellectual life." Their opposite numbers, the "cosmopolitans," however, do have a strong affinity for research and theoretical issues — and they are far more likely to be present on prestige campuses.[8]

This distinction may not be limited to the rarified atmosphere of academe. Patricia Kendall reviewed studies on the learning environments of hospitals and reported a similar difference. Residents and interns were asked to select the lectures on medicine that would most likely appeal to their professional colleagues. The choices ranged from "How To Avoid Malpractice Suits" to "The Role of Serotonin in Disorders of the Gut." The locals were characterized by a preference for lectures that dealt with the nuts-and-bolts problems of practice, like the avoidance of malpractice suits. The cosmopolitans, on the other hand, were typified by a preference for lectures on scientific medicine and research, such as the serotonin lecture. In other words, the locals seem to have more of a trade school orientation and the cosmopolitans seem to prefer a more scientific approach.

When the results of this investigation were sorted out by hospital, it became evident that the more a hospital was affiliated with a medical school, the more cosmopolitan its staff orientation.[9] But this study may only prove the power of a university to contaminate and corrupt innocents. Nevertheless, if you are doubled over with a pain in your gut, it would be nice to know that your doctor had listened to the gut lecture rather than the malpractice lecture.

Perhaps the whole distinction is a mistaken dichotomy, a kind of "I will only look at trees, not the forest" approach. It could even be that theory and practice complement one another. All good educators remember the Research 101 maxim, "The most practical of all things is a good theory."

Whatever the case, we gathered that at Nova the practical and the applied have carried the day. Educational theory does not sit near the head of the table there.

We asked President Fischler about standards and quality control at Nova (this was last July). He told us that the Southern Association of Colleges and Secondary Schools had just reexamined and reaffirmed Nova's accreditation for the normal 10-year period and that NCATE (the National Council for Accreditation of Teacher Education) had just visited 15 clusters of one program and had submitted an encouraging "exit report."

All of this would be more reassuring if it were not for one recent development: A number of newspapers have taken notice of Nova's external degree programs, and they have not always liked what they saw. Within the past year the tempo of this criticism has quickened and has been featured on the front page of a major national newspaper, the *Miami Herald*. Although the *Herald* did a two-part series and an editorial on the topic, it was not the only newspaper to show interest in the matter. The *Chicago Tribune* has addressed itself to the subject, and the *St. Petersburg Times* ran two features — all within the past year or so. In short, external degree programs, their standards and their criticisms, have become interesting news.

What follows is an abstract of some of the more serious criticisms aired in the media.

"...[T]he practical and the applied have carried the day. Educational theory does not sit near the head of the table [at Nova]."

The *St. Petersburg Times*: The Michigan State Board of Education appointed an "Ad Hoc Committee of Scholars" who studied Nova University's external degree programs in Michigan and found that: 1) Nova doctoral students were working full time and only going to class one weekend a month. 2) Two Nova doctoral students did not even have an earned bachelor's degree, and more than half did not have master's degrees. 3) The Nova University doctoral faculty were largely part-time, almost half of the doctoral cluster directors did not hold the doctorate, and the cluster directors were part-time Nova employees — though described by Nova, twice, as full-time employees. 4) In view of this, the committee concluded that Nova's "minimal requirements for a doctoral degree are too minimal and therefore not acceptable."[10]

The *Miami Herald*: The Texas commissioner of higher education was quoted as saying: "All that Nova really provides is the degree. I call it freeze-dried education. Just add water — some local professors, a local library — and presto! You have the magic degree."

So far, New York, Ohio, and Michigan have banned or do not recognize the external Nova degree. Texas and Pennsylvania will permit no expansion, and North Carolina and Nevada are thinking about "grounding" or "tightening up" the program.[11]

The *Chicago Tribune: Human Behavior* commented on Nova's accreditation as follows: "Nearly every standard in the books — qualified resident faculty, financial resources, facilities, library resources, no credit through correspondence, and so on — had to be by-

An Invitation

The articles in this *Kappan* written by Kenneth Ashworth and H. G. Vonk/R. G. Brown are intended to reopen a debate on the external doctorate in education initiated in November, 1973, with Richard B. Morland's "The External Doctorate in Education: Blessing or Blasphemy?" Both of the current articles are based on generally negative evaluations of the new degree.

We welcome positive views and will publish, in the spring, the best articles defending the external doctorate received before January 1, 1979. — SME and RWC

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passed to get Nova accredited, but the Southern Association of Colleges and Schools managed it." The *Tribune*, in quoting the above, noted that "Nova University was granting Ed.D. and Ph.D. degrees when it claimed a faculty of only 29 and a library of only 20,000 volumes."[12]

The *Miami Herald*: The *Herald*, noting the 45% less class time than other programs and the criticism of an inflated number of doctorate degrees, editorialized that "For the sake of Nova as well as the taxpayers, the program ought to be reformed or killed."[13]

The *Miami Herald*: The Florida vice chancellor for academic programs, Paul Parker, hopes that the accrediting associations will get a handle on the issue and build in quality control. And, according to the *Herald*, "Pressures for tightened regulations are being felt by accrediting organizations. . . . Graduate school deans in the Northern Association are lobbying for an end to the association's reciprocity agreement, an arrangement which gives an institution automatic national accreditation if passed by only one board." All six associations have agreed to post "watchdogs."[14]

The *Chicago Tribune*: And, finally, an excerpt from a stinging editorial:

> Nova University of Fort Lauderdale, Florida, should be far better known than it is. Uninformed people may think that the doctorates it issues wholesale are equivalent to doctorates from mainline universities.
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> An earned doctorate normally represents at least three years of successful full-time graduate study, as judged by senior professors at a university with a large scholarly library (less than a million copies is small in this league) and exacting standards for both faculty and graduate students. But an Ed.D. from Nova represents a few weeks at Fort Lauderdale, monthly meetings with a "national lecturer" and one's fellow "participants" in a "cluster" in one's home town, and receiving academic credit for work done on a salaried job for some school system. The fees are fairly steep, but the demands for campus residency and for work one would not have done anyway are impressively small. . . .
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> People hiring and promoting academic personnel should not confuse an Ed.D. degree from Nova University with an Ed.D. from an Ivy League or Big Ten university. Here in Chicago, it is past high time that Chancellor Oscar Shalbat of the City Colleges and Superintendent Joseph Hannon of the public schools evaluate radically differing doctorates and end the practice of rewarding unconventional doctorates in the same terms as standard ones.[12]

The *Miami Herald*: An editorial in the *Herald* questioned Nova's standards, commenting thus: "It was inevitable that a program aimed primarily at raising wages would turn into one that is more concerned with degrees than real educational achievement." For instance, it noted that instead of a research paper, Nova students write a "practicum" that can focus on such routine problems as "how to maintain order in a cafeteria." The *Herald* did not care for what it saw, and went so far as to say: "But facts now coming to light make us wonder if it isn't in danger of becoming a high-toned diploma mill."[13]

There are some serious criticisms here. And all of this, if accurate, raises some grave general questions about the standards of external degree programs, as well as the standards of the accrediting associations and the government agencies that approve them.

The purpose of accrediting agencies is to appraise programs and protect the public. And it is becoming clearer with each newspaper article that there is growing skepticism about the equivalency of internal and external programs. It is easy to see why, after these articles, some people question the integrity of accredation, or why some people think accrediting agencies behave suspiciously like academic protective and benevolent associations.

On top of all of this, external degree programs are multiplying rapidly at all levels. In Florida, for example, it is now possible to get a bachelor's, master's, and doctorate all through the external route — barely having to step foot on a campus. As one person put it, "I can get the whole nine yards in fast-service academic Seven-Elevens." Moreover, external programs are now available in police science and public administration. This in and of itself is not necessarily bad, but there is a noticeable proclivity for institutions like Nova to develop areas that are of interest to public employees. Indeed, a *Miami Herald* headline reads, "Union's Role Profits Nova, Teachers." The story reported that it cost South Florida taxpayers around one million dollars a year to pay for teacher raises — raises made possible by an advanced degree and a union contract.[15] Since the *Herald* article, school boards in South Florida — and elsewhere — are taking a much harder line when it comes to rewarding all graduate degrees, and this is unfortunate. But it is also understandable. Many fear

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Nova University was recently visited by an evaluation team from the National Council for Accreditation of Teacher Education (NCATE), but at press time the team's report had not yet been made public.

For a two-year period, colleges and universities seeking NCATE accreditation have the option of waiting for the evaluation team's report to come before an evaluation committee, then be reviewed by the council, or the report may simply go directly to the council for its determination. The second path is much quicker. Nova chose the former. Nova's evaluation report will go before an evaluation committee in March, 1979, with review by the council in June.

Two sets of NCATE standards of evaluation also exist. Nova was evaluated under the old standards (the new ones are much the same, but some new categories have been created; the area of "governance" has, for example, been taken from under "curriculum" and made into a separate category). As described by Lyn Gubser, NCATE director, the old standards are:

1. Curriculum for basic programs. This area stresses a strong general studies component, plus humanistic and behavioral studies. It underscores the content of teacher training and is strongly oriented toward field training and practicum courses. As noted, it includes governance and asks: Is the professional teacher training program in the hands of qualified teacher educators who have professional and scholarly preparation for their posts?

2. Faculty. The accent here is on well-prepared, professionally qualified, full-time faculty.

3. Students and basic programs. At issue here are standards of admission and retention, a requirement for optimum counseling and advising of students, and student participation in program development.

4. Resources. This area demands a solid library, including a good professional library (one that contains a historical collection and texts, not just periodicals), a materials and instructional media center, and good physical facilities and other resources. Gubser maintained that NCATE's standards are "sufficiently flexible" in this area and says he is "impatient with those institutions that say there is provision only for traditional institutions" in NCATE's guidelines.

5. Evaluation, program review, and planning. This area includes review of graduates, surveys of employers of graduates, and an internal evaluation of how well the institution prepared its graduates for their careers.

Each NCATE evaluation team is composed of one-third practitioners, one-third representatives of higher education, and one-third "other groups." Nova's evaluating team consisted of 10 members; each institution pays the expenses incurred in its own evaluation. — RWC

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that the ever-growing external degree programs may turn out to be little more than public employee credential machines.

Whether these fears are well founded remains to be seen. But one consequence is already evident: Public confidence in the integrity of the Ed.D. has been badly shaken, a consequence Richard B. Morland so accurately foresaw five years ago.[16]

Morland has hardly been alone in his concern. Fred A. Nelson, then with the College Entrance Examination Board but now a Nova vice president, wrote a thoughtful article titled "Has the Time Gone for an External Degree?" In it he observed that

> One person's innovation is another's fraud. . . . As a result, a few external degree programs appear meretricious. Possible cheapness and duplicity may continue to spawn diploma mills appearing under the mailbox of "external degree" or under the banners of "innovative," "relevant," "open," and "nontraditional." In the last analysis, the true quality of any innovative or external degree program rests upon the professional integrity of individual faculty members involved. . . . Those campus substitute programs where institutional faculty can be by-passed, by one means or another, can further degrade American higher education. . . .[17]

It should be noted here that we were told Nova's two external Ed.D. programs totaled 53 clusters between them. One program had 27 clusters ranging from 12 to 39 students. If we assume a midpoint enrollment of 25 students for each of the 17 clusters, this comes to 675 doctoral students — spread over just five full-time faculty. The other program had 26 clusters ranging from 22 to 26 students. If we assume a midpoint of 24 students for each of the 26 clusters, this comes to 624 doctoral students — once again spread over only five full-time faculty. To be sure, there are 225 part-time faculty in the two programs, but no matter how you slice it, part-time faculty are hardly as available as full-time faculty. Thus when all is said and done it appears that the full-time student/faculty ratio is probably in the vicinity of 60:1. This is a stunning figure either by Nelson's standards or by any other respectable standard we have ever heard of.

Nelson concludes his article with this warning, "The existing problems in external degree programs, if allowed to grow worse rather than improved, if not solved, may mean that the public's interest writ large will suffer severely. Whether and how these problems will be resolved, whether or not these questions are answered, will indeed determine whether or not the time has gone for the external degree."[18] Nelson's warnings were published a few months after Morland's. But the warnings have gone unheeded, and now we are beginning to see embarrassing revelations headlined in major newspapers.

Obviously, something is wrong. Either the traditional doctorate with its demanding admission, its years of coursework, its expensive residency, its comprehensive examinations, its months in the library stacks, and its exacting dissertation is an elaborate, exhausting bilking machine or the external doctorate with its far more relaxed admission, its 24 once-a-month Saturday meetings, its nonresidency, its two sunny institutes, its absentee library, and its applied final paper or project is a thin imitation, a pretender.

Clearly, there is a crisis. As one person put it: "Don't tell me people don't know the difference between an in-house Ed.D. and an out-house Ed.D. It's just that nobody wants to shoot Santa Claus." A school administrator had this to say: "During the war I was a 90-day wonder, and after the war I was a weekend warrior, but I never got a doctor's degree for it. Now it's 24 Saturdays plus two weeks and you're a doctor, a 38-day wonder."

This ludicrous picture is made to order for press crusaders who, sensing the marvelous contradictions, will make the most of them. Their efforts will serve neither the external degree nor the internal degree well. In the end, *both* will sink into disgrace and become a laughing stock. Then some cynic somewhere will surely say that people get the education and the degrees they deserve. We have had warnings; now we will get fire. It is horribly late, the newspapers are closing in, the public isn't buying anymore, and unless we distinguish between "in-house" degrees and "out-house" degrees, the bell will toll for the Ed.D. A fitting inscription for the headstone might read: "Died at Credibility Gap."

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1. Cyril O. Houle, *The External Degree* (San Francisco: Jossey-Bass, 1973), pp. 20, 25.
2. Ibid., p. ix.
3. Lee Porter, *Degrees for Sale* (Arco Publishing, 1972), p. 25.
4. David Riesman, "Ten Years On," *The New Republic*, July 1, 1978, pp. 13-17.
5. Richard B. Morland, "The External Doctorate in Education: Blessing or Blasphemy?" *Phi Delta Kappan*, November, 1973, pp. 163-68.
6. Donald P. Mitchell, "Let's Set the Record Straight: A Case for Nova University's External Doctorate in Education," *Phi Delta Kappan*, February, 1974, pp. 370-75.
7. Earl Hughes et al., *Nova University's Three National Doctoral Degree Programs: An Analysis and Formative Evaluation*, (Ft. Lauderdale: Nova-N.Y.I.T. Press, 1977.)
8. David Riesman, *Constraint and Variety in American Education* (Garden City, N.Y.: Doubleday-Anchor Books, 1958), pp. 35-44.
9. Patricia Kendall, "The Learning Environments of Hospitals," in Paul K. Lazarsfeld et al., *Continuities in the Language of Social Research* (New York: The Free Press, 1972), pp. 249-58.
10. Bette Orsini, "Michigan Action Clouds Nova U. Degree Program," *St. Petersburg Times*, March 5, 1978, Sec. B, p. 1; and "Panel of Scholars Expressed Concern About Nova Program," *St. Petersburg Times*, March 5, 1978, Sec. B, p. 22.
11. Chris Drake, "Nova 'Cluster' Program Draws Fire," *Miami Herald*, June 25, 1978, pp. 1, 24-A.
12. *Chicago Tribune*, "Rewarding Doctoral Degrees" (editorial), September 5, 1978, Sec. 3, p. 2.
13. *Miami Herald*, "Nova Program a Matter of Degree" (editorial), June 28, 1978, p. 6-A.
14. Chris Drake, "Officials on Edge, Fear Diploma Mills," *Miami Herald*, June 25, 1978, p. 24-A.
15. Chris Drake, "Union's Role Profits Nova, Teachers," *Miami Herald*, June 26, 1978, pp. 1, 4.
16. Morland, op. cit.
17. Fred A. Nelson, "Has the Time Gone for an External Degree?" *Journal of Higher Education*, March, 1974, pp. 174-83.
18. Ibid. □

A New Name for the External Doctorate

Critics of the external doctorate in education often suggest that, since requirements for the new degree are so different, the degree ought to be given a new name. But they don't offer one.

I have solved that problem.

Let us simply confer knighthood on successful candidates for the alternative degree. They would thenceforth be known as Sir Josephine or Sir Joe Blow. The title offers several advantages. First off, it clearly differs from the traditional doctorate but has a noble tradition of its own. The prospective administrator with knighthood, upon sallying forth to the public school wars, would be armed with a rich heritage. Furthermore, he or she would never be confused with physicians and thus subject to hounding by investment salespersons.

Of course there are some small disadvantages. Salary schedules would need to be revised. This would lead to extended discussions. Should the knighthood column be to the left of, equal to, or to the right of the doctorate column? There is also a problem of sexism. Knights were usually male. However, Joan of Arc has already paved the way.

Let knighthood flower!

— Howard Holt
San Diego State University

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The Nontraditional Doctorate:
Time for *Sine Cera*?

by Kenneth H. Ashworth

Unethical contractors in Rome repaired defective building stones with wax. In time it became a requirement that stones be certified as sound with the imprint* Sine Cera, *without wax.

At the very time when our traditional universities are overproducing doctoral graduates for the immediate job opportunities available, a number of institutions and nontraditional entities, euphemistically calling themselves universities, have introduced what are known as nontraditional doctoral degrees. What is the motivation for this movement? What clientele does it serve? What justification do these institutions offer for such programs? How are the programs being offered and who, if anyone, controls them? These and other major issues raised by the growth of external degree programs deserve some attention.

The motivation for offering such programs begins with the person who needs the doctorate. In our society the degree is a necessary or at least desirable credential for job entry or advancement in several fields. So the mere possession of a doctorate in philosophy, education, business administration, public administration, etc., has monetary value. And when an item acquires monetary worth, someone will find it advantageous to market it to a broader clientele.

A few established universities responded to the increased demand for doctorates by introducing nontraditional, (i.e., off-campus) doctoral programs. Simultaneously, private entities entered the market, professing to serve the clientele in our society who need special doctoral programs for their personal fulfillment and advancement: the more "mature" individuals, those working full time, those without geographic mobility, those who need more "flexible" requirements, and those who need a "different kind of content" for a degree program. These private institutions and agencies cite obsolescent statistics regarding a shortage of doctorates and quote President Kennedy's statement in 1963: "The shortage of Ph.D.s constitutes our most critical national problem." On this basis, they contend that they are serving not only the needs of a special clientele but of society in general. These degree-offering institutions also state that since their graduates are already working, they are "a better product," and their performance can be measured on the job. Advertisements for such degrees are found in such prestigious periodicals as *Saturday Review*, *Atlantic Monthly*, *Harper's*, *Forbes*, and *Psychology Today*.

One segment of our society that apparently needs service from such agencies and institutions is the military establishment. Education officers on military bases have been urged by their commanding officers to bring Ph.D.s and other doctoral programs onto their bases. On-base degree programs help to retain personnel in the voluntary armed services, and doctoral degrees would presumably help officers embark more easily on second careers following retirement. At least one commanding officer has reportedly promised his education officer an automatic GS-grade increase if he can bring a doctoral program to the base.

The military branches keep stating that they want high-quality programs, but their contention is contradicted by the elimination of the Education Office in the Defense Department. Its functions were transferred to a planning and management division, and only two of the eight positions of the Education Office have survived. Perhaps along with shoes and socks for the troops, units of education will now be acquired by seeking the lowest bidder. In education, accepting the low bid may turn out to be a form of Gresham's Law, in which low-quality programs drive out higher-quality programs.

Another institutional motivation for nontraditional doctorates relates to the generation of dollar income. Public institutions that offer doctoral courses on military bases can get state reimbursement for those credit hours. Some private institutions offering such programs charge $5,000 to $6,000 for a degree. Agencies teaching on military bases, by serving this new clientele, can collect income from government fees for educational training and from the Veterans Administration under the GI Bill. In addition, institutions can keep their own doctoral programs alive by assigning their existing faculties to courses taught on military bases. This arrangement also helps justify the retention of faculty in fields of declining enrollment on campus.

Clientele served by nontraditional doctoral programs includes those who are not able to spend a year in residence on a university campus, as traditional doctoral programs require. This new approach opens opportunities to full-time employees who wish to work part time on a doctorate. In addition, these older, more mature students have had lifetime experiences for which nontraditional institutions will often give graduate credit, thereby reducing the time required to obtain a doctorate. Another group to whom these programs appeal is all-but-dissertation students ("ABDs"), those who

KENNETH H. ASHWORTH is commissioner, Coordinating Board, Texas College and University System, Austin. His book, Decay in American Higher Education, *soon to be published by the Texas A & M Press, expands on the topic dealt with here and covers related areas.*

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were not able to complete degree requirements under the traditional arrangement. By enrolling in the less demanding nontraditional programs, these students can now obtain the coveted but heretofore elusive degree. In sum, such programs waive requirements for full-time study, for residence on campus, for much of the coursework, and sometimes for the rigorous final oral defense of the dissertation. They also salvage students dropped from other programs because of inability to meet the standards. Such laxity is appalling to most traditionalists. But the recipient of a nontraditional degree can demand the same elevation in classification and salary granted holders of traditional doctorates.

The new doctorate raises fundamental issues. First among these is quality.

A recent study of doctoral programs in educational administration led Robert Trautmann to conclude: "The most common expectation . . . is still that the student reside on campus for one year and that he not be employed . . . and since residency is still so strongly recommended to encourage collegiality and research, and since research facilities on campus are still far superior to those available elsewhere, it seems appropriate for the doctorate to remain an on-campus degree."[1]

In the nontraditional programs, credit is nearly always offered for prior work or lifetime experience. Dissertation requirements are waived in many cases in favor of "projects" related to the person's employment. With the granting of credit and the waiving of other requirements, it is possible to develop individually designed programs for each student; students are thus not bound by what the nontraditional agencies call "inflexible and standardized requirements." Moreover, what are considered "unrealistic" residence requirements are waived to allow students to acquire doctorates when they cannot move or commute to a university campus. For the individually designed programs, part-time faculty members are often hired as needed to serve as preceptors, proctors, or mentors for individual students. Since students are being educated individually under such guidance, regular classes are not required as often. To deflect criticism regarding lack of exposure to other faculty members and other students, some programs require students to spend at least one month at some "campus."

The agencies and institutions establishing such nontraditional doctoral programs are often parasitic in that they contract with the faculties of existing traditional colleges and universities to serve as preceptors and faculty advisors to the students. These faculty members are paid on a unit basis, i.e., according to the number of students assisted or graduated. Such arrangements represent a kind of "fee for service" concept in higher education. The nontraditional doctoral-granting agency or institution expects its part-time faculty members to supervise the work of the individual student, assist him with any problems he has with his program of study, keep him interested in the program and in moving toward completion of a degree, and help him find materials needed for his study. Such "moonlighting" faculty members are often expected, in fact, to arrange for library access at the faculty member's home institution for students not registered at that institution. They are also expected to arrange the long distance telephone conference call in which the student must defend his dissertation or "project," when such a requirement exists.

The development of nontraditional doctoral programs raises a number of fundamental issues in higher education. Primary among these, of course, is quality. The advocates of the nontraditional doctorate contend that their programs more closely follow the European approach than do traditional American programs; that is, the student is allowed to work on his own with few required courses, and his examination is controlled by his faculty advisors. The crucial matter, then, is the quality of the faculty and the nature of the faculty (full time or part time) supervising the students and its commitment to the maintenance of standards in the face of other enticements and pressures.

Full-time faculty members in the past have served as the major quality control in the traditional doctoral programs; that is, they have applied the standards of the *institution* as well as their own standards of performance and excellence to graduate students. The nontraditional entity, drawing part-time faculty from many institutions, is not as likely to have a uniform standard of excellence or even of minimum performance. The inadequate contact with traveling or part-time faculty affects the quality of the program as well.

Insistence on standards usually leads to the charge that supporters of traditional programs are advocating a form of elitism that deprives certain deserving students of acquiring a doctoral degree simply because they cannot follow the traditional mode. If, however, by "elitism" they mean the maintenance of quality for the doctoral degree, then the label should not be considered pejorative. The question can legitimately be asked, Does not elitism have an appropriate role in the production of faculty members themselves in higher education? Is not elitism, in fact, defensible at the doctoral level?

The problem of maintaining quality in doctoral programs turns on the separation of the educational function from the credentialing function of our colleges and universities. Since the "clientele" are often more interested in credentials than in the education the credentials purportedly certify, very few students participating in mediocre or low-quality programs ever voice any objection to them.

Credentials have become important because they provide entree to new jobs and advancements in our society. The colleges and universities in our society, however, are expected to perform certain understood functions. Specifically, they have been expected to separate the potentially able from the less capable students. They are further expected to classify students according to their performance in college as a predictor of performance in subsequent positions.[2] All of this in addition to broadening knowledge, expanding horizons, and deepening judgment. With the inflation of grades, the reduction of admissions standards, and the lowering of performance standards to retain students for credit-hour production and financial income, however, businesses, school districts, and government agencies are finding that the colleges and universities are failing in these expected functions. In the meantime, many employers still rely upon credentials and hope that the elevation of educational requirements to higher levels will result in a more satisfactory sorting process.

Traditional colleges and universities for which faculty members work could, if they chose, exert some control over nontraditional doctoral programs by prohibiting moonlighting of faculty members for other institutions and by prohibiting the use of library and other facilities by nonregistered students or by charging appropriate user fees. It seems absurd that agencies without a campus, without a library, without laboratories, and without a faculty should be offering doctoral degrees. But they are. Moreover, it seems even more ridiculous that they should be demanding recognition of the credentials they sell as equal to those offered by traditional universities. But they are.

Until the traditional universities and faculty members recognize this as a prob-

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lem and take steps to deal with it, very few other controls will apparently be exerted. The state coordinating agencies and boards have some control over such programs, but military bases, as federal reservations, are beyond the control of state regulation or law. A coordinating agency has control over activities of public institutions in its own state that move nontraditional programs off campus. Control over private institutions within the state and entrance of out-of-state institutions into the state to operate such programs are, however, beyond the control of most coordinating agencies.

The regional accrediting associations have not exerted much control over the spread of such nontraditional degree programs in the geographic areas under their jurisdiction. They are trying to work out a procedure to control programs brought into their regions from parent "campuses" in other regions, but the North Central Association will not agree to the review of branch campuses of its institutions in other regions.

Consequently, the integrity of higher education is on the line. But the question is, Who is paying any attention within higher education? The university faculties do not seem concerned, and some institutions are prostituting themselves as they offer their purportedly educational services in exchange for money. And some faculty members at respected institutions will work for nontraditional schools to pick up the extra income, claiming this to be their right and an exercise of academic freedom.

In the meantime, higher education continues to overproduce graduates in many fields. This overproduction is of course exacerbated by the proliferation of nontraditional doctoral degrees. If the trend continues, there will ultimately be a change of position among the control agencies of our society. If the schools and faculties fail to meet their responsibilities, if state coordinating agencies cannot obtain jurisdiction over inferior programs, and if the accrediting associations fail to meet their responsibilities, legislators will eventually have to respond to the dissatisfaction of employers, of students who have been bilked, and of taxpayers who are fed up with channeling more money into education activities without satisfactory returns on their investment. And educators should have learned long ago not to leave their problems to legislative solution.

Assuredly, modifications and innovation are needed in any institution if it is to continue to function effectively in a rapidly changing society. However, someone needs to control what flies under the guise of "innovation." In addition, the burden of proof for the introduction of innovative procedures should be placed in proper perspective. At present the advocates of nontraditional programs have taken an aggressive position, placing the traditional universities on the defensive, demanding that they show cause why nontraditional degree programs should not receive equal recognition with the traditional programs. The shoe is being put on the wrong foot. Society has not changed so rapidly in the past decade that the experience of 800 years of higher education should be scuttled at the first threat by those who wish to appropriate the titles and "good will" associated with legitimate academic degree programs. Historically, those who recommend changes have usually borne the burden of proving their worth or their superiority to existing tested methods.

The big drive at the moment is for admission of agencies and institutions awarding nontraditional doctoral degrees to the accrediting associations, with full recognition of the academic validity of their degree programs and their use of traditional degree titles. Accrediting agencies in this country originated as voluntary organizations, and the courts have held that they can establish their own conditions and rites of membership. Nevertheless, the new agencies and institutions offering nontraditional programs are threatening legal action if they are not admitted to the accrediting bodies for traditional organizations and degrees.

The nontraditional organizations have threatened to create their own accrediting body. The creation of such an accrediting agency would seem entirely appropriate and in accord with the history of voluntarily organized accrediting bodies for traditional institutions. The only question remaining, then, would be whether the federal government or the Council on Postsecondary Accreditation would recognize such accreditation as institutional qualification for federal assistance and qualification of the students for federal loans, grants, military educational assistance, and GI benefits.

The providers of nontraditional programs have entered this field because their degrees generate income, because the doctorate is highly valued by certain persons, and because requirements of the degree are imprecisely defined. The loose definition has functioned in the past because dedicated full-time faculty members have carefully screened admission to doctoral programs and requirements for graduation. A loose definition was, indeed, needed to permit accommodation to individual needs. That inexactitude, however, is now combined with the monetary value of the doctoral degree to produce a proliferation of nontraditional institutions that award doctorates.

Certain questions that remain unanswered will become increasingly important in the next few years: Are qualified educators actually controlling the quality of nontraditional doctoral programs? Should not any nontraditional degrees be forced to use degree titles different from those used in the traditional institutions? And, most important, will educators capitulate to pressures demanding full and equal recognition to nontraditional degrees through the accrediting associations?

During one period in the construction of Rome an unethical practice was common in connection with building stones. When they were chipped or fractured in transit, the pieces were stuck back in place with wax. Of course the buildings constructed with such faulty materials collapsed, or pieces of stone flaked off and fell into the streets. In time it became a requirement that stones be certified as sound by the imprint *Sine Cera*, "without wax." We are approaching the time in this country when we must find a way to validate educational credentials *Sine Cera*.

1. Robert D. Trautmann, "Residence and Admissions Requirements for the Doctorate in Administration at 81 Institutions," *Phi Delta Kappan*, November, 1977, pp. 208, 209.
2. Burton R. Clark, *Educating the Expert Society* (San Francisco: Chandler Publishing Co., 1962). □

NIE Publishes on External Undergraduate Degree

The National Institute of Education has recently published three volumes of interest to anyone who wishes information on the current status of rapidly burgeoning undergraduate external degree programs in the U.S.

The first volume, titled *Guide to Undergraduate External Degree Programs in the United States* and published last December, lists more than 130 institutions and consortia offering programs, with degrees offered and areas of study, previous education required, maximum credit for prior learning, maximum credit for prior experiential learning, minimum campus time, grading system, job placement assistance, enrollment, cumulative graduates, and year begun. Most of the programs yielding the bachelor's are no more than 10 years old. Few have graduated as many as 100 persons. The largest is Empire State College of Saratoga Springs, New York, with 2,646 bachelor's given since 1971.

The other two volumes, both published this year, are *External Degrees: Program and Student Characteristics*, and *The External Degree as a Credential*. The latter underlines the usefulness of external degrees and shows that persons completing them are well satisfied. But the report warns against regarding external degrees as any kind of education panacea.

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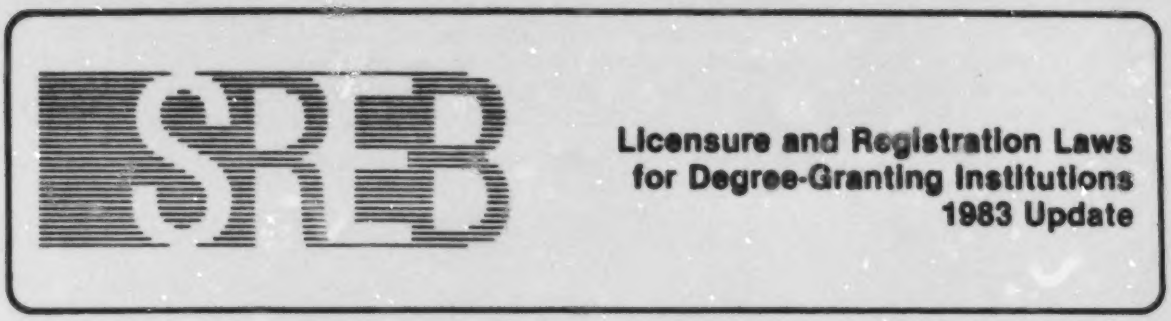

Licensure and Registration Laws for Degree-Granting Institutions 1983 Update

During the 1970s, states became seriously concerned about institutions that might be conferring fraudulent or substandard college and university degrees. The result was the passage of new or strengthened laws for institutional licensure that established minimum standards for operation and the awarding of academic degrees. SREB first reported on this "educational consumer protection" legislation in 1978,* noting that states were especially concerned about the operation of out-of-state institutions. States questioned whether even accredited institutions were properly monitoring the quality of their far-distant programs and began to examine these operations independently of the accrediting bodies. Some institutions, however, suspected that states were more interested in protecting in-state institutions from competition than in protecting consumers.

Since 1978, several states have amended their legislation or revised their rules and regulations. In all cases, this legislation has broadened the authority of the state agencies which have been charged with responsibility for administering the licensure and registration laws (usually postsecondary education coordinating boards). At the same time, however, the confrontational relationship between out-of-state operations and the state regulatory agencies has lessened to some degree, as these institutions have met the requirements of the law and have begun to monitor their operations more closely.

In Florida and Texas, legislation was recently passed which extended or strengthened the agency's authority over the operation of branch campuses. In Florida, for example, branch operations of private institutions are no longer exempt from licensure unless they have been separately approved by the accrediting agency. (Several states, including Florida, have exempted accredited institutions from licensure. It is also common for exemptions to be made of institutions offering only religious instruction or operating exclusively on military bases.) The 1983 Tennessee legislature consolidated licensure authority over all postsecondary institutions--including vocational schools offering non-academic programs--in one agency, the Tennessee Higher Education Commission. In South Carolina, chiropractic colleges, formerly exempted from licensure, must now comply with the standards set by the South Carolina Commission on Higher Education. In West Virginia, amendments passed in 1982 extended the licensure law's coverage to proprietary institutions seeking to offer academic degrees. In other states, for example Maryland, Virginia, and Florida, new rules and regulations have been developed to establish minimum standards and to license and regulate the operations of out-of-state institutions.

The rapid development of telecommunications and their use by colleges and universities to deliver credit instruction via television is beginning to concern a number of agencies responsible for licensure. Institutions are now transmitting courses to client industries and to groups of students both via broadcast and closed circuit networks. Other institutions are in the process of developing their own educational television networks. This issue is

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* "State Regulation of Off-Campus Programs and Out-of-State Institutions" (Southern Regional Education Board, Issues in Higher Education, No. 12.)

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currently the subject of a joint project of the State Higher Education Executive Officers (SHEEO) and the Council on Postsecondary Accredition (COPA). Known as Project ALLTEL (Assessing Long Distance Learning via Telecommunications), it is studying the accreditation, state licensure, and legal issues associated with the use of telecommunications and is expected to issue its recommendations in 1984. (For further information, contact Dr. Bruce Chaloux, One Dupont Circle, N.W., Suite 410, Washington, D.C., 20036, telephone: 202/659-1406.)

The following is a summary of licensure and registration laws in SREB states:

Alabama

Regulatory Agency: None

Statute Reference:

Comment: In 1979, the Commission on Higher Education received statutory authority to authorize and regulate out-of-state degree granting institutions, but the Commission has not yet implemented that authority. The state does have a proprietary school licensure law, administered by the Department of Education, which regulates non-degree granting institutions.

Arkansas

Regulatory Agency: The Arkansas Department of Higher Education

Statute Reference: Act 560 of 1977 (Previously Act 903 of 1975)

Exempted Institutions:

1. Institutions authorized to grant college credit or academic degrees in-state prior to January 1, 1975.
2. Institutions providing religious programs which clearly label the programs as such.
3. Institutions operating under proper military agreements on military bases where the enrollment in each course includes more than 50 percent military.

Comment: Requires certification and incorporation prior to offering degrees; covers courses or degrees offered by out-of-state institutions, including external degrees and cooresponding courses. The law is viewed primarily as consumer protection legislation and standards are enforced with that objective in mind.

Florida

Regulatory Agency: The State Board of Independent Colleges and Universities Department of Education

Statute Reference: Chapter 246 (Non-public Postsecondary Institutions) Revised 1982

Exempted Institutions:

1. In-state colleges approved by an accrediting agency recognized by the U.S. Department of Education.
2. Religious colleges which do not give academic degrees.

Comment: New provisions in the law add responsibilities for review and authorization of branch operations of in-state accredited colleges unless the branch is separately approved by the accrediting agency. The revisions also require stringent standards for the use of "college" or "university" in an institution's name. The State Board of Independent Colleges has also been designated as the data collection agency for information concerning non-public colleges.

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Georgia

Regulatory Agency:	State Department of Education Office of Standards and Assessment
Statute Reference:	Postsecondary Educational Authorization Act, 1978 (HB 112)
Exempted Institutions:	1. Public institutions. 2. Private institutions in Georgia which have been accredited for more than 10 years by a national or regional accrediting agency recognized by the U. S. Department of Education.
Comment:	Rules establish minimum standards, a process of evaluation, and penalties for noncompliance of this law which is for regulation of private degree granting institutions.

Kentucky

Regulatory Agency:	The Kentucky Council on Higher Education
Statute Reference:	Kentucky Revised Statute (KRS 164.945 to 164.947)
Exempted Institutions:	Non-public colleges already licensed or approved for establishment and operation by a statutorily created board (e.g., barbers, hairdressers, business schools, and other proprietary institutions).
Comment:	Requires license to grant degrees; restricts use of terms: college or university. Regulation requires out-of-state institutions to demonstrate need.

Louisiana

Regulatory Agency:	The Louisiana Board of Regents
Statute Reference:	Act 225 of the 1976 Regular Session
Comment:	Requires registration with the Board of Regents only. This does not imply approval, accreditation, or licensure.

Maryland

Regulatory Agency:	The Maryland State Board for Higher Education
Statute Reference:	Article 77a of the Laws of the State of Maryland (1976)
Exempted Institutions:	1. Out-of-state colleges which operate on military installations exclusively for active-duty military personnel (exemption provided in state regulations). 2. Independent in-state institutions chartered by the General Assembly are not required to meet minimum standards to operate in the state (exemption provided by statute).
Comment:	While the statute has not been amended since 1976, SBHE has adopted new regulations governing the operation of out-of-state institutions (July, 1979) and regulations establishing minimum standards for in-state colleges (July, 1980). SBHE has adopted, among other provisions, a need criterion which places the burden of responsibility on institutions to demonstrate evidence of need prior to establishing operations in the state of Maryland.

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Mississippi

Regulatory Agency:	Commission on College Accreditation
Statute Reference:	Title 37-101-241 Mississippi Statutes
Exempted Institutions:	Those established prior to 1972.
Comment:	Colleges wishing to grant degrees must be approved by the accrediting commission.

North Carolina

Regulatory Agency:	The University of North Carolina, General Administration
Statute Reference:	General Statutes of North Carolina (G.S. 116-15)
Exempted Institutions:	1. Institutions established prior to 1961. 2. Seminaries, bible schools, and other religious institutions.
Comment:	Rules establish criteria for licensure in order to grant degrees. Out-of-state institutions required to meet same standards as in-state institutions. In 1983, the legislature authorized its legislative research commission to study the regulation of both public and non-public postsecondary educational institutions. The report is expected in 1985.

South Carolina

Regulatory Agency:	South Carolina Commission on Higher Education
Statute Reference:	Chapter 59-46-10 et seq, Code of Laws of South Carolina 1976 as amended (also section 59-103-120)
Exempted Institutions:	1. Institutions established in South Carolina prior to 1953. 2. Bible colleges or theological schools. 3. Any institution which is accredited by an association recognized by the Council on Postsecondary Accreditation. 4. Those institutions approved for teacher certification by the State Board of Education.
Comment:	The law provides for the licensure of institutions, through examination, which are seeking to grant "academic degrees." Institutions established outside of South Carolina and operating in this state are not exempted even if they are accredited. Changes since 1979 have eliminated the exemptions for chiropractic colleges. South Carolina recently passed separate but related legislation requiring non-public institutions to submit an appropriate plan for disposition of records prior to dissolution or merger.

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Tennessee

Regulatory Agency:	Tennessee Higher Education Commission
Statute Reference:	House Bill 1154 (1983), Tennessee Code, Annotated, Title 49, Chapter 39
Exempted Institutions:	1. Those chartered and primarily based in Tennessee which are accredited by an agency recognized by THEC.
Comment:	In 1983, the licensure law was amended to give the Tennessee Higher Education Commission authority to license all non-exempted institutions including those institutions offering vocational associate degrees, certifications, diplomas, etc. The latter group of institutions had formerly been the responsibility of the Department of Education.

Texas

Regulatory Agency:	Coordinating Board, Texas College and University System
Statute Reference:	Texas Education Code Subchapter G & H
Exempted Institutions:	1. Institutions fully accredited by a regional accrediting agency. 2. Institutions whose graduates are subject to state licensure.
Comment:	Requires certification of authority to grant degrees, enroll students, or use "academic" terminology. The licensure law was amended in 1981 to strengthen the Coordinating Board's authority over the establishment of branch campuses and to limit the amount of time an institution may operate without accreditation.

Virginia

Regulatory Agency:	State Council of Higher Education
Statute Reference:	Title 23 Chapter 21, Sections 23-265 through 23-276 of the Code of Virginia
Exempted Institutions:	1. Institutions whose primarily purpose is theological training or religious education. 2. Institutions operating on military bases and enrolling only active duty military personnel or employees of the base.
Comment:	The law requires that private Virginia institutions and both public and private out-of-state institutions which wish to offer courses for degree credit or to confer degrees receive approval from the Council. The Council has established 22 standards and the review includes site visits. The Council standards focus essentially on two items: 1) consumer protection, and 2) the establishment of minimum standards. Out-of-state institutions must seek approval for each program to be offered at each operational site within the state.

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West Virginia

Regulatory Agency:	West Virginia Board of Regents
Statute Reference:	West Virginia Code, Section 18-26-13a (as amended in the 1982 legislature by House Bill 2025)
Comment:	The 1982 amendments broadened the definition of higher educational institutions to include "any private proprietary educational institution in this state operated for profit which offers one or more programs leading to a degree." As a result of this change, the Board of Regents has adopted new rules and regulations regarding accreditation and approval of degree granting institutions. The Board relies upon the standards of institutional accreditation agencies and either observes the accreditation process or conducts its own evaluation.

State Agencies Administering Licensure and Registration Laws

Arkansas Department of Higher Education, 1301 West 7th Street, Little Rock, Arkansas 72201--501/371-1441

Florida State Board of Independent Colleges and Universities, Department of Education, Tallahassee, Florida 32301--904/488-8695

Georgia State Department of Education, Office of Standards and Assessment, Twin Towers East, Room 1870, Atlanta, Georgia 30334--404/656-2688

Kentucky Council on Higher Education, U.S. 127, South, West Frankfort Office Complex, Frankfort, Kentucky 40601--502/564-3553

Louisiana Board of Regents, 161 Riverside Mall, Baton Rouge, Louisiana 70801--504/342-4253

Maryland State Board for Higher Education, 16 Francis Street, Annapolis, Maryland 21401--301/269-2971

Mississippi Commission on College Accreditation, Chairman--Executive Secretary of the Board of Trustees of State Institutions of Higher Education, P.O. Box 2336, Jackson, Mississippi 39205--601/982-6611

University of North Carolina General Administration, P.O. Box 2688, Chapel Hill, North Carolina 27514--919/962-6981

South Carolina Commission on Higher Education, Rutledge Building, 1429 Senate Street, Columbia, South Carolina 29201--803/758-2407

Tennessee Higher Education Commission, 501 Union Building, Suite 300, Nashville, Tennessee 37219--615/741-3605

Coordinating Board, Texas College and University System, P.O. Box 12788, Capitol Station, Austin, Texas 78711--512/475-4361

Virginia State Council of Higher Education, James Monroe Building, 101 North 14th Street, Richmond, Virginia 23219--804/225-2137

West Virginia Board of Regents, 950 Kanawha Boulevard, East, Charleston, West Virginia 25301--304/348-2101

For further information, contact James R. Mingle or Mark Musick at SREB 404/875-9211.

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State Regulation of Off-Campus Programs and Out-of-State Institutions

Encouraged by such developments as Britain's Open University and the findings of national commissions (most notably the Carnegie Commission and the Newman Task Force), various nontraditional programs have undergone a period of significant growth in the 1970's. Bound by neither the traditions of the credit hour or by campus residence, these programs are characterized by their flexibility and accommodation to individuals and their circumstances. Teaching takes place in a variety of locations, using different modes of delivery. Programs often focus on the working adult student who can engage in educational activities only on a part-time basis and may have difficulty attending classes at an on-campus location.

One aspect of nontraditional instructional movements has been the increasing volume of credit courses conducted by public institutions in off-campus locations in other parts of the state and the operation of programs, by a large number of both public and private institutions, outside the state of home-base operation.

Off-campus programs and "out-of-state" institutions have raised a number of difficult issues for legislatures, state regulatory agencies, accrediting associations and institutions. The separation of these programs from the sources of support available to students attending traditional institutions—for example, counseling services, full-time faculty and library facilities—has led to concerns about quality. The development of off-campus centers by public institutions at locations which infringe on the "territory" of other publicly supported institutions raises coordination issues and the need to control unnecessary duplication.

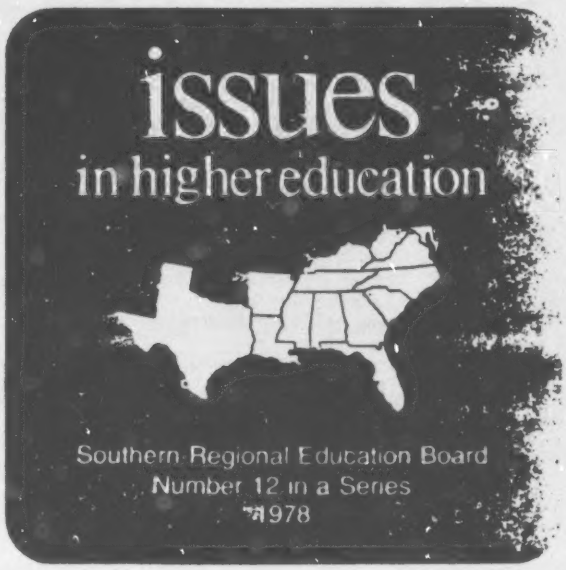
Some of the most complex issues revolve around the development of national institutions operating across state lines. Licensure laws passed in recent years have been directed in large part toward controlling "degree mills" which have defrauded the public through deceptive advertising and unscrupulous practices. Caught in the same web of state regulation are legitimate institutions which claim that the purpose of legislation, in many cases, has not been consumer protection, but protection of in-state institutions from competition. The out-of-state operations have raised important questions about the limits of state planning and the constitutionality of some current provisions. Conversely, the in-state institutions have objections to some of the practices of these institutions, especially their use of local faculty and facilities.

Institutional Licensure Laws

In recent years a number of states have passed new legislation to license degree-granting institutions (see Table 1). Licensure laws, in contrast to chartering or registration statutes, have involved the states in the establishment of minimum standards and the evaluation of institutional quality. It is a new and difficult role for many states. In 1973, the Education Commission of the States (ECS) created model legislation which some states have used as a basis for their legislation. While licensure laws vary widely in both specific provisions and intent, there are some common elements:

Exempted institutions: Among the most important differences in state laws are variations in types of institutions exempted from the licensure process. Some states exempt regionally accredited institutions (West Virginia), or those accredited by an association recognized by the Council on Postsecondary Accreditation (Tennessee), or those institutions which can demonstrate that academic credits are accepted by accredited institutions (Florida). Some states have also provided for the exemption of special purpose institutions, such as church-affiliated schools where the primary purpose is religious training rather than preparation for an academic degree. In North Carolina, all nonpublic colleges, regardless of accreditation, which wish to confer degrees are subject to licensure.

Consumer protection provisions: Most state licensure laws and regulations contain provisions directed at consumer



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protection. Institutions may be required to obtain surety bonds and/or proof of financial assets in excess of a certain dollar amount ($500,000 in one state). Institutions are enjoined against false advertising and making unsubstantiated claims (including interpretation of "licensure" as accreditation by the state). Some states specify cancellation and refund policies and provide for the maintenance of school records in the event of closing.

Minimum standards: The criteria employed for judging institutions are often difficult to assess. In some cases, state laws and regulations are purposely vague to allow for wide flexibility and overall assessment of the institution. Wayne Freeburg, executive director of the Florida Board of Independent Colleges and Universities, believes the law in his state is guided by consumer protection concerns. This philosophy, he asserts, can best be served, not by establishing specific criteria for faculty qualifications and facilities, but by asking the question, "Does the institution have the resources to do what it purports to do?" In practice, this means the licensure of a wide range of institutions—some with limited and special purposes.

Often states, North Carolina for example, have estab-

Table 1

Licensure and Registration Laws for Degree-Granting Institutions

State	Regulatory Agency	Statute Reference	Comment
Alabama	None		Proprietary school law exempts "colleges offering academic courses toward a recognized and valid degree."
Arkansas	Department of Higher Education 1301 West Seventh Street Little Rock, Arkansas 72201	Act 560 of 1977 (previously Act 903 of 1975)	Requires certification and incorporation prior to offering degrees. Covers courses or degrees offered by out-of-state institutions, including external degrees and correspondence courses.
Florida	State Board of Independent Colleges and Universities Department of Education Tallahassee, Florida 32304	Chapter 246, Florida Statutes	Licensing by an independent board. Exempts accredited institutions and those whose credits are accepted by at least three accredited institutions.
Georgia	State Department of Education State Office Building Atlanta, Georgia 30334	Section 14 and Section 32-415 of Georgia School Code	Current certification law carries no enforcement power. Proposed bill (Postsecondary Educational Authorization Act) seeks to strengthen licensure.
Kentucky	Kentucky Council on Higher Education U.S. 127 South, West Frankfort Office Complex Frankfort, Kentucky 40601	Kentucky Revised Statute (KRS) 164.945 to 164.947	Requires license to grant degrees. Restricts use of terms *college* or *university*. Regulations require out-of-staters to demonstrate need.
Louisiana	Louisiana Board of Regents Suite 1530 One American Place Baton Rouge, Louisiana 70825	Act 225 of the 1976 Regular Session	Requires registration of institutions including those based out-of-state. Licensure *is not* required.
Maryland	Maryland State Board of Higher Education The Jeffrey Building 16 Francis Street Annapolis, Maryland 21401	Article 77A of the laws of the State of Maryland	State board has power to control awarding of degrees. Statute has been interpreted to include out-of-state institutions.
Mississippi	Commission on College Accreditation Chairman—Executive Secretary of the Board of Trustees of State Institutions of Higher Learning P.O. Box 2336 Jackson, Mississippi 39205	Title 37-101-241 Mississippi Statutes	Colleges wishing to grant degrees must be approved by the accrediting commission.

lished much more specific criteria, especially in the area of facilities, which must be met in order to offer academic degrees in that state. The objectives of such an approach are more likely to be educational and developmental than regulatory.

The evaluation of nontraditional programs, however, raises problems. With acceptable practice so much in flux, states have difficulty separating the legitimately "innovative" institutions from "fly-by-night" operations. Credit for life experience, the use of adjunct faculty, dependence on local library facilities, learning contracts, and joint dissertations are only a few of the devices which have been used by nontraditional institutions and questioned by educators and state officials. The nontraditional institutions themselves have joined others in calling for criteria by regional accrediting associations so that their own reputations will not be damaged when they are lumped with questionable institutions.

Clearly there is no uniform philosophy which guides licensing. Some states have adopted essentially the same criteria for all types of institutions. Others have attempted to use the institutions' stated objectives as a starting point. But,

State	Regulatory Agency	Statute Reference	Comment
	Mississippi Commission of Proprietary School and College Registration Suite 506, Sillers State Office Building P.O. Box 771 Jackson, Mississippi 39205	Title 75-60	Law deals with licensure of proprietary institutions; however, all out-of-state institutions have been interpreted as proprietary.
North Carolina	University of North Carolina P.O. Box 2688 Chapel Hill, North Carolina 27514	General Statutes of North Carolina (G.S. 116-15)	Rules establish criteria for licensure in order to grant degrees. Out-of-state institutions required to meet same standards as in-state.
South Carolina	South Carolina Commission on Higher Education Room 1104 Rutledge Office Building 1429 Senate Street Columbia, South Carolina 29201	Act 201 (1977)	Provides for the licensure of institutions seeking to grant "academic" degrees. Accreditation by an organization recognized by Council on Postsecondary Education accepted as meeting standards for licensure.
Tennessee	Tennessee Higher Education Commission 501 Union Building, Suite 300 Nashville, Tennessee 37219	Chapter 39— Post-secondary Education Authorization Act	Institutions must obtain license and meet minimum standards. Prohibits use of terms. Exempts institutions accredited by regional associations and members of the Council on Postsecondary Accreditation.
Texas	Coordinating Board Texas College and University System P.O. Box 12788, Capitol Station Austin, Texas 78711	Chapter 61, Subchapter G and H, Texas Education Code (H.B. No. 1379 and 1536, Texas 1975)	Requires certificate of authority to grant degrees, enroll students, or use of terminology. Applies to out-of-state institutions, public and private. Rules exempt accredited institutions (or candidates).
Virginia	State Council of Higher Education for Virginia 700 Fidelity Building 9th and Main Richmond, Virginia 23219	Section 23-6.1, 23-6.2 23-6.3, 23-9	Restricts use of terms, requires approval to grant degrees. Criteria applied are similar to regional accrediting associations'. Out-of-staters must register and be accredited by USOE-approved agency to operate.
West Virginia	West Virginia Board of Regents 950 Kanawha Boulevard, East Charleston, West Virginia 25301	West Virginia Statutes, Chapter 18-26-13a	Board determines minimum standards for the conferring of degrees. West Virginia institutions with regional accreditation meet requirements; out-of-staters are evaluated based on North Central Association standards.

objectives in higher education are not easily stated; and there are changing conceptions of what constitutes adequate curriculum and physical arrangements. States must also determine how much regulation to enforce to protect the student from his own poor judgment.

In the absence of widely accepted criteria for guidance, measures taken by licensing boards are likely to reflect general attitudes concerning the legitimacy of nontraditional programs. Boards which feel that "innovative" operations should be encouraged have found ways to license such institutions. Those which view most such operations as "fly-by-night" and a threat to the integrity of academic degrees have found ways of discouraging or limiting nontraditional operations of all kinds.

Out-Of-State Institutions

The increasing number of institutions operating across state lines has created special problems for state licensing agencies. In many cases the laws make no mention of out-of-state operations; in others they are exempted from licensure due to accreditation of the home-base operation. Virginia, which requires licensing of in-state degree-granting institutions, makes no attempt to evaluate the quality of out-of-state operations, depending rather on the accrediting associations. The North Carolina licensure law has been interpreted as encompassing all out-of-state operations, both public and private. Its rules and regulations specifically note that out-of-state institutions must meet the same standards as those applied to in-state institutions. In Kentucky, regulations require that out-of-state schools obtain a license and that they establish the need for a proposed program. Further, the Council on Higher Education "shall determine that such need cannot reasonably be met by colleges located in Kentucky."

Many out-of-state operations in the South operate exclusively on federal installations, usually military, and thus are immune from state regulation. State officials note, however, that such operations often recruit and enroll civilians. In addition, external degree programs which enroll students out-of-state but do not utilize physical facilities do not usually come under state licensure laws.

While these interstate programs have come under attack in some states, they have the potential for a positive effect on higher education. They can, many believe, provide for healthy competition and laboratories for new models of delivery. Their success, supporters argue, demonstrates that they are meeting previously unmet public needs.

A survey conducted by SREB of out-of-state operations in the South revealed a large and varied list of institutions (see Table 2). The range of offerings is considerable, although technical, business administration, public administration and teacher education programs are among the most common. Some institutions, as mentioned, operate primarily on military bases and offer courses and programs to servicemen and women and their dependents (Pepperdine University, University of Southern California, Embry-Riddle Aeronautical University). Others specialize in teacher education, contracting with local school districts to provide courses and programs (La Verne College, Rocky Mountain College). The University of Oklahoma offers master's programs in public administration and business administration. The Center for Degree Studies of Scranton, Pennsylvania offers a number of associate degree programs in engineering and electronic technologies. Drew University of New Jersey offers a doctorate in theology.

Programs operating out-of-state often employ local coordinators who contract with community resource people and faculty members from other institutions to teach courses in local high schools, community or military base facilities, federal office buildings, or hotel meeting rooms. In some cases, the out-of-state programs have more extensive facilities resembling those of a "branch" or off-campus center. On military bases, faculty sometimes teach for more than one institution, and registrars or admissions officers are employed by more than one institution at the same time.

A unique and sometimes controversial institution operating nationwide is Nova University of Ft. Lauderdale, Florida. In addition to its home-base operation (which includes an oceanographic institute and a law school), Nova operates three doctoral degree programs and one master's program in twenty states, plus the District of Columbia and Puerto Rico. The educational administration program (Ed.D.) is directed toward employed administrators at the elementary and secondary level (employment is a requirement of admission). Similar programs are directed at public administrators and community college faculty. Clusters of about 30 students each meet for day-long sessions on the weekends. The three-year program uses adjunct faculty who travel to these clusters. Students also attend summer institutes at the Florida main campus. Nova prides itself on exposure of its students to nationally known faculty and on the collegial nature of the clusters. Library resources are provided through material and money allocated to the clusters and by access to computer data bases and microfiche materials by mail.

In many ways, Nova is traditional—there is a set curriculum and prohibitions against transfer credits or credit for experience, for example. Students are evaluated both by the adjunct faculty and readers of the "practicums," which are required exercises similar to dissertations but oriented more toward the students' particular work experiences. In 1971, the Southern Association of Colleges and Schools (SACS) granted Nova regional accreditation, which was reaffirmed in 1975.

Ironically, it is Nova University's attempt to combine the traditional with the nontraditional that has brought it to the attention of state licensing agencies. Other programs which have avoided the use of any facilities by conducting totally "external" programs have generally gone unnoticed and unregulated by the states. Walden University in Florida, for example, arranges contracts between individual students and faculty members (usually employed full-time by other institutions). Students also attend a summer institute. A soon-to-be-released study conducted by the American Council on Education (ACE) on external degree programs, found 27 such programs in nine SREB states, including "New College" at the University of Alabama, the Regents' B.A.

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degree programs in ten West Virginia public institutions, and the external degree program at Florida International University (see Table 3).

From the states' perspective, out-of-state operations have raised a number of legitimate questions. Considering their obligation to protect the public from fraudulent operations, states need to examine both in-state and out-of-state operations. But some states have assumed an additional responsibility—to protect the integrity of the academic degree. Critics claim that out-of-state programs are attracting students away from in-state institutions by lowering standards. The in-state institutions respond in kind by lowering their own standards. It is a form of Gresham's Law says one state official—"low quality programs drive out the high quality ones."

The institutions involved in multi-state operations have a different perspective however. The states, they complain, are more interested in protecting their own public institutions than in protecting consumers. In cases where the state agency charged with licensing is also the governing board for the state university system, there is, critics argue, *prima facie* evidence of conflict of interest.

Red tape is strangling innovation and reform, says Morris Keeton, former provost of Antioch College. "The real enemies of higher education reform are the competitors who stand to lose markets. . . ." The language of regulation is consumer protection, but the reality is protectionism, asserts Keeton.

> Increasingly, states are adding to the procedures and regulations constraining innovation. Separate authorizations may be required for the right to do business in a state, to get program approval to offer degrees, to be eligible for state aid to students (with veterans as a special category, and often under different terms for different programs), and to confer particular forms of certification (with a separate authorization for each form of certificate).

For new and struggling institutions, time and money are the greatest constraints. In addition to the financial endowments some states are requiring, the price to be paid for onsite visits of certifying officials and the sometimes deliberately lengthy review process have been enough to discourage many would-be innovators.

"The burden of proof is always on the innovator," says Fred Nelson, vice president of external affairs for Nova University. "Even though a public institution may be mediocre, it is assumed not to be fraudulent. Private institutions, particularly new and innovative ones, are expected to prove they are not fraudulent. And the proprietary institutions are sometimes assumed to be fraudulent or at least meretricious."

But from the perspective of some states, the out-of-state schools live off the resources of others by using state-owned library facilities and adjunct faculty who are employed by other institutions. In some cases, critics note, out-of-state operations have been the economic salvation for a troubled home-base operation. The out-of-state institutions argue, however, that it is in the interest of the citizens of a state to have available a wide variety of educational options, not just those of the state-supported schools. Why should a state, they ask, object to programs which require no state-appropriated dollars?

The Restraint of Trade Argument

The possibility of litigation over state regulation of out-of-state institutions must be considered. Institutions have raised questions about the constitutionality of some state actions. However, the cost and potential benefits of court action have heretofore constrained institutions from challenging the states. While the institutions could raise questions about due process and state officials' authority under state law, another likely issue for litigation may be alleged state violations of the "commerce clause" of the United States Constitution. William Kaplin, law professor at the Catholic University of America, argues that the commerce clause limits the authority of states to regulate in ways which interfere with the free movement of goods and people across state lines. Precedents exist, he argues, for consideration of educational activities under the definition of "commerce." In the past, the courts have performed a delicate balancing act, attempting to protect legitimate state interests, while at the same time protecting the principles of free trade. Often, the courts have required legitimate local public interest, not protection of the economy of a community, as a criterion for decisions in favor of regulation.

While no such case has reached the courts, Kaplin suggests some tests which might be applied. Is the regulation even-handed? Are out-of-state institutions being subjected to criteria not applied to in-staters? Suppose a state denied entry by imposing a need requirement to which in-state programs were not subjected? Or a need requirement newly applied to both out-of-state and in-state programs, but which serves to freeze and preserve a market dominated by in-state schools? What will the courts say about denial of approval by a statewide board dominated by in-state institutions?

Off-Campus Instruction in the Public Sector

While state agencies search for ways to regulate out-of-state institutions, they are struggling over similar issues with their own public institutions. Off-campus instruction, once shunned by all but a few, has obtained a new respectability. Public institutions are conducting credit and noncredit courses in locations distant from the main campus. Off-campus enrollment in Tennessee numbered 12,700 in 1976, nearly ten percent of total enrollment in that state. North Carolina reported more than 76,000 individual registrations in degree credit instruction off-campus. While a variety of groups and professions are served by such instruction, teachers and other professional school personnel are the largest consumers. North Carolina and Florida report that aproximately 60 percent of their off-campus programs and courses are directed toward this clientele. With other professions implementing continuing education requirements for certification purposes and renewal of licenses, off-campus instruction is likely to grow as well as to diversify.

(continued on page 8)

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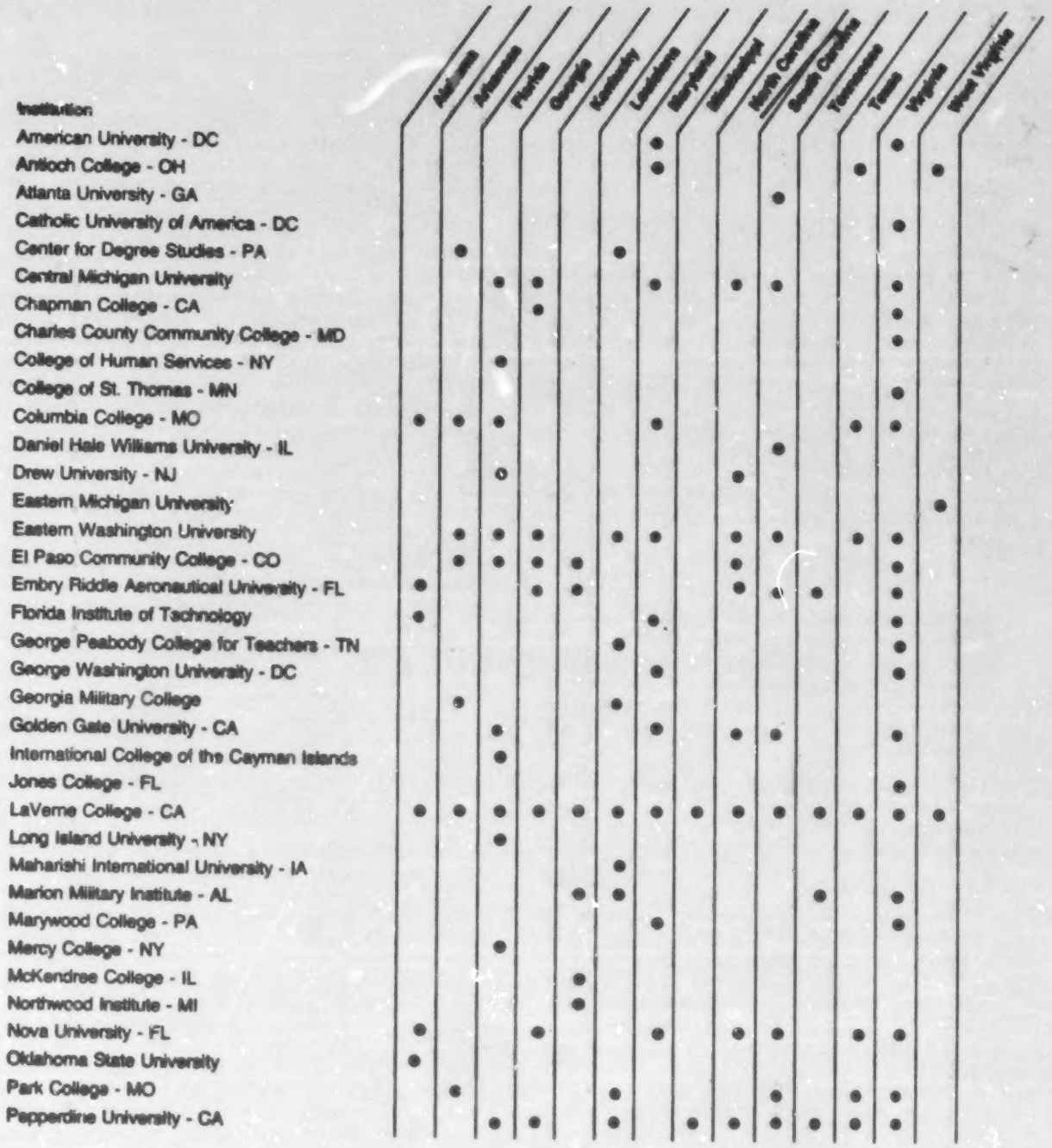
Out-of-State Institutions Offering Degree



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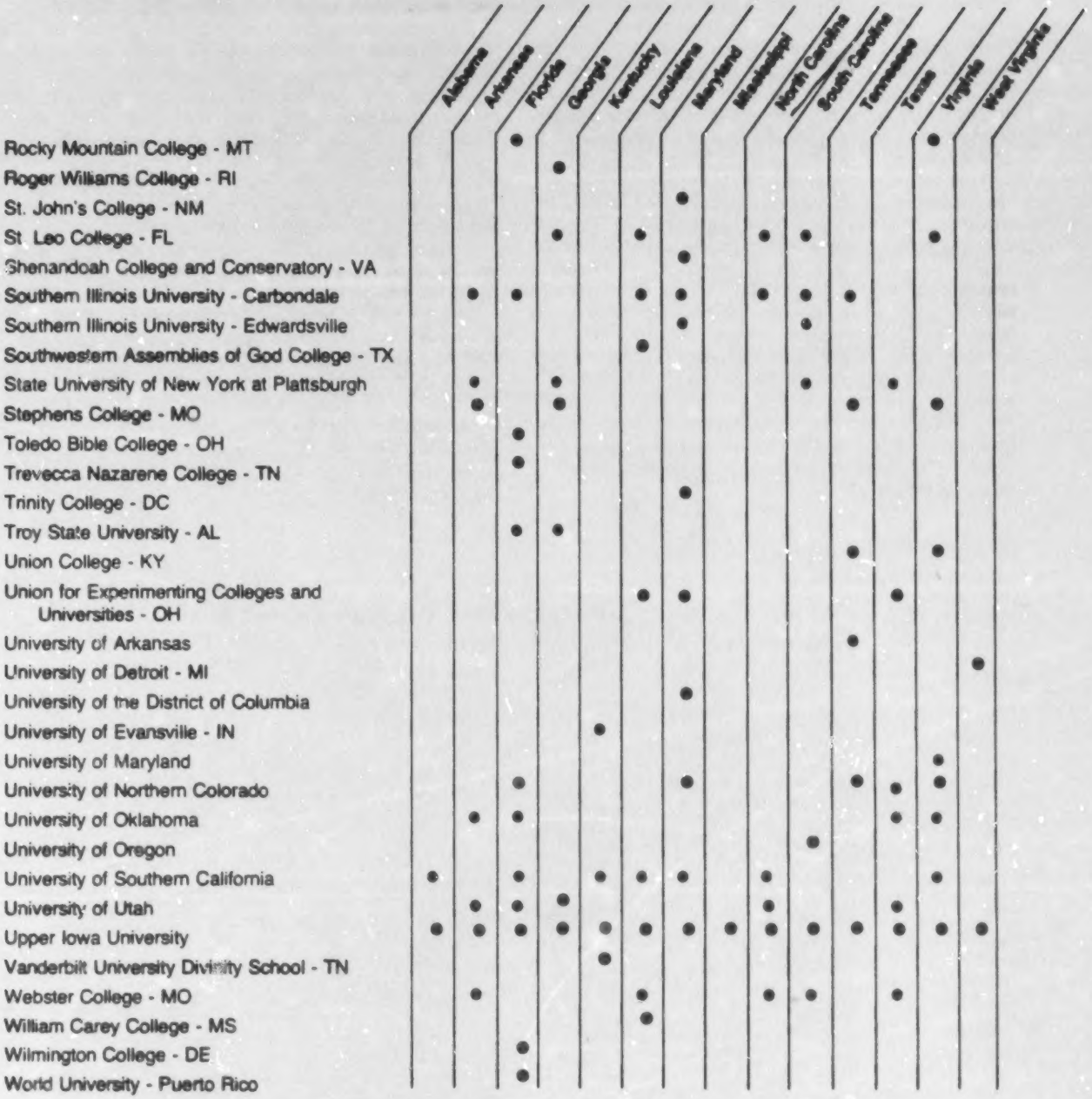
edit Courses in Southern States, Fall 1977



● Indicates programs offered exclusively on military bases or other federal property.

Note: The list of institutions above was compiled by contacting state higher education agencies, veterans' approving offices and state departments of education. Institutions were then asked to confirm the information. The colleges and universities included operate programs in the states indicated (in addition to their home state) through the use of some type of physical facility. External degree programs, which often enroll students across state lines have been excluded. For a list of such programs see Table 3.

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As with the out-of-state operations, critics believe that the movement has led to a proliferation of low quality and unnecessary programs and numerous territorial disputes among institutions. Supporters argue, however, that off-campus programs have been developed to meet the legitimate needs of working adults who cannot attend classes on campus. These programs, to be sure, pose difficult problems for statewide planning and coordinating agencies and institutions. How should program responsibilities and territories be divided among competing institutions? What constitutes unnecessary duplication? How can quality be maintained? At what level should such programs be funded?

A number of states have recently developed or revised their guidelines for off-campus instruction. Florida allocates off-campus instruction both by designating county jurisdictions and program responsibility among its institutions. A Virginia statute has mandated the development of regional consortia for off-campus planning. Six regional consortia have been established, with each under the governance of a board of directors consisting of the presidents of institutions located in the region and an *ex-officio* member from the staff of the State Council of Higher Education. The arrangement is aimed at eliminating duplication and establishing criteria for determining the appropriate institutions to perform the respective activities. Institutions wishing to conduct off-campus programs in a region must be approved by the appropriate consortium.

The Texas Story

Nowhere in the region, however, has the issue been more hotly debated or been a subject of greater concern than in Texas. A review of that state's recent experience highlights many of the issues surrounding off-campus instruction.

The Texas system of public higher education consists of 92 public institutions governed by lay boards. Among the boards for senior institutions are several which have responsibility for more than one institution, including the large multi-campus University of Texas System. The Coordinating Board of the Texas College and University System is charged with the primary responsibility for statewide coordination, including the power to approve or disapprove new degree programs and designation of formulas used by the governor and legislature for determining appropriations.

The past 10 years in Texas higher education have been ones of substantial growth. Unlike some states, growth has continued through the 1970's at a rapid pace. Since 1968, twenty-five new public institutions have been opened, including 10 new community colleges. In a report to the legislature in January 1975, the Coordinating Board noted that 97 percent of the state's population was within 50 miles of a public institution of higher learning.

Demands for expansion continue in Texas institutions. The Coordinating Board, which has declared a moratorium on new graduate programs, currently has 63 programs pending decisions on approval.

Figure 1

Distribution of Upper Division and Graduate Off-campus Degree Credit Courses, Texas Senior Institutions, 1977-78

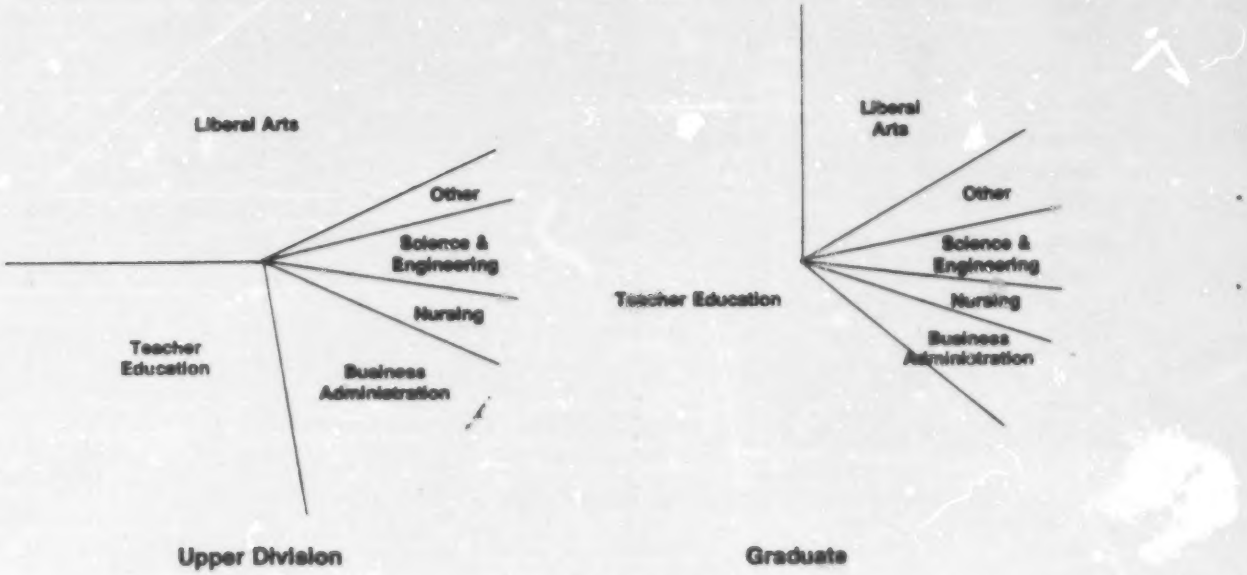

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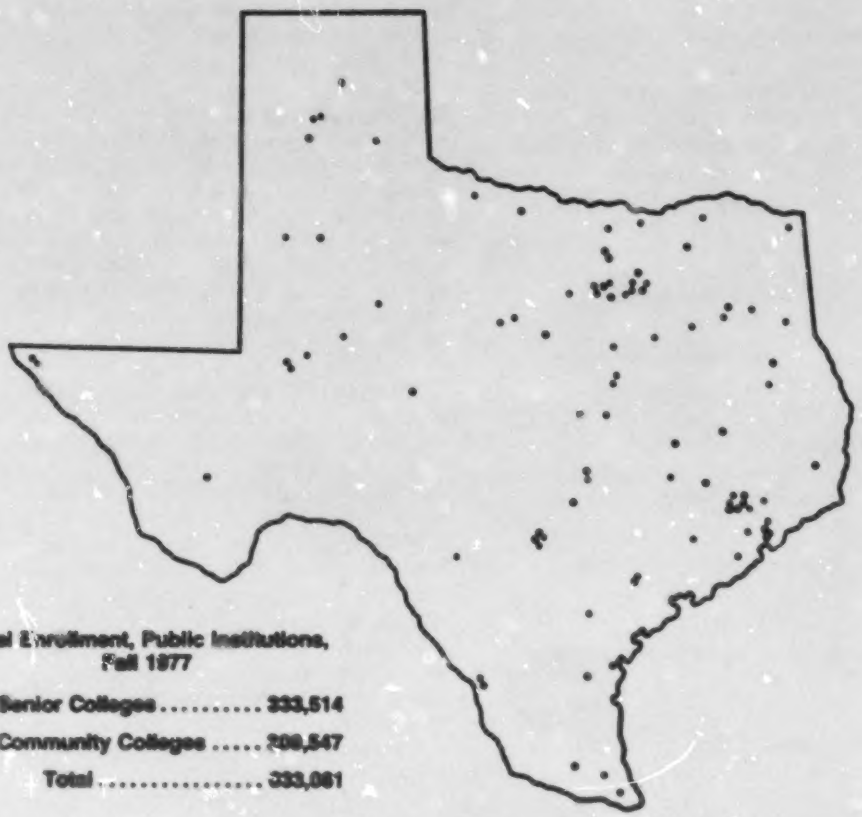
Figure 2

Public Colleges and Universities in Texas, Fall 1977



Total Enrollment, Public Institutions, Fall 1977

- 38 Senior Colleges 333,514
- 56 Community Colleges 209,547

Total 333,061

Off-campus instruction in Texas developed as a means of covering the vast territory of the state. Extension courses were offered by 12 of the state's senior colleges in 1968, often in areas which would later have institutions of their own. In 1971, when SACS adopted new standards and required institutions to stand fully behind the quality of their instruction whether off- or on-campus, the old extension classification was dropped. Institutions switched to off-campus resident instruction which, unlike extension work, was supported by state subsidy. In 1973, there were 965 classes taught off-campus by the state's senior colleges and universities. In 1976-77 the number had risen to 3,880. Half of these courses are in teacher education (see Figure 1). State support for off-campus programs in both junior and senior institutions is estimated at $42 million in the current biennium.

By 1972, the Coordinating Board and the Texas Legislature had begun to raise questions about the rapid growth of off-campus instruction. Some Board members and legislators had doubts about the educational validity of such activity, and concern for possible duplication of effort.

However, much of the pressure for regulation and coordination of off-campus activities originated with the existing institutions themselves. In 1969, the University of Texas of the Permian Basin was established in an area of west Texas which had long been served by the extension activities of several institutions, including Sul Ross State in Alpine and Texas Tech in Lubbock. When enrollments at Permian Basin did not meet expectations, administrators pointed at the continued off-campus activities of institutions still operating in the area and demanded that the Coordinating Board curb their operations.

The first effort to develop regulations, begun in 1973 by the staff of the Coordinating Board, attempted to use the structure of the eight regional councils which had been organized among the Texas community colleges. Senior institutions in Texas, however, would accept the councils' mediation only for disputes over freshman and sophomore off-campus courses, of which there were few. Further, the universities argued, geographic division of off-campus in-

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Table 3

External Degree Programs in the South

Alabama

University of Alabama, *New College*

Florida

Embry Riddle Aeronautical University, *College of Continuing Education*

Florida International University, *State University System External Degree Program*

Miami-Dade Community College, *Life Lab Division*

St. Leo College, *External Degree Program*

University of South Florida, *BIS External Degree Program*

Louisiana

New Orleans Human Services Institute

Maryland

Columbia Union College, *External Studies Program*

Community College of Baltimore, *Department of Continuing Education*

University of Maryland, *Open University*

Urban Regional Learning Center, c/o Community College of Baltimore, Harbor Campus

South Carolina

University of South Carolina, *Military Regional Campuses*

Tennessee

University of Tennessee at Martin, *Criminal Justice Education*

Texas

Baylor University, *Continuing Education Office*

Hispanic International University, *University Without Walls Program*

Saint Edward's University, *New College*

Virginia

George Mason University, Office of Extended Studies

West Virginia

Regents B.A. Degree Program:

Bluefield State College

Concord College

Fairmont State College

Glenville State College

Marshall University

Shepherd College

West Virginia Institute of Technology

West Virginia State College

West Virginia University

Source: American Council on Education, *Guide to External Degree Programs* (forthcoming)

struction made little sense. From their perspective, dividing instruction on the basis of program responsibilities was more appropriate.

The continued failure to resolve the conflicts over upper division and graduate level instruction led to new legislation in 1975 which authorized the Board to carry out course-by-course approvals. This state mandate to identify the sources of duplication required that the staff of the Board review and approve or disapprove each of the 4,000 courses being offered off-campus in the state.

The size of the task quickly led to a revision of the regulation. The following year, the Coordinating Board took another approach. Informal conferences were organized by areas of the state. (The staff of the Board had concluded that territorial conflicts, not program disputes, were indeed the principal problem.) Those institutions located in the area, and those institutions "interested" in the discussions, were invited to attend. Institutions were encouraged to resolve their own conflicts. When this was not possible, the Coordinating Board mediated, following a set of rules which favored local institutions.

The Houston area was one in which the Coordinating Board was called upon to resolve territorial conflicts. The local institution in this case was the University of Houston; the "remotes" were a number of institutions including some which had long-established off-campus programs in the area. Stephen F. Austin State University, for example, had established a relationship with a school district in the northern suburbs of Houston, using it as a "practice teacher" outlet. When the district began to look for graduate courses for its teachers, it turned to Septhen F. Austin.

The courses taught by Stephen F. Austin were eliminated, but the questions which were raised persist. What constitutes unnecessary duplication? Should students living in a congested urban area, where commuting is difficult, be required to attend classes on-campus? (The University of Houston has not replaced the off-campus programs in the outlying districts, and critics charge that students have not correspondingly enrolled in the University's on-campus programs.)

What is known, says the Board, is that the informal negotiations per se have had a significant effect. To avoid bringing disputes to the Coordinating Board, the institutions have become much more cooperative.

Lifelong Learning: Wave of the Future or Institutional Ruse?

The claim is made that motivation to expand off-campus instruction, whether to a neighboring county or to a distant state, is linked to the need to counter stable or declining enrollments at the home campus. With low facilities costs and the lower costs of using part-time or adjunct faculty, dollars can be generated for home campus activities. In 1977, the Texas Coordinating Board proposed that off-campus degree credit instruction be funded at 60 percent of the level of on-campus activities. In the face of heavy lobbying by the community colleges, the legislature modified the proposal so

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that the effect will be to fully fund all but a small amount of the current activity.

Funding of off-campus programs in other SREB states varies. In Tennessee and Florida, credit hours generated off-campus produce the same dollar support from the state as comparable credit hours on-campus. In Virginia, the formula used in funding has discriminated against off-campus instruction, utilizing higher student/faculty ratios and lower salary schedules. Institutions are expected to pay from internal funds for about 50 percent of the cost of enrollment. North Carolina appropriates funds for administrative support of off-campus activities, but generally instruction costs are met from student fees. In Arkansas, the formula used by the State Department of Higher Education has treated off-campus and on-campus instruction equally (except in the areas of plant operation and maintenance) but the institutions have, in fact, received little funding for these operations. A proposal being considered for the 1979-80 biennium calls for a recommended funding level at 75 percent of the rate of on-campus instruction.

To many, including Dr. Kenneth Ashworth, Commissioner of Higher Education in Texas, institutions are being forced into the "body-counting business." Methods being adopted to increase institutional budgets, which in most states are closely linked to enrollments, include lowering of admissions and performance standards, active recruitment programs, and the creation of off-campus centers. Institutions note, however, that off-campus instruction is a response to strong consumer demand. In states where teachers' salaries are linked to the accumulation of graduate credit, there is a tremendous motivation for enrollment. (The regional accrediting associations also set school standards which include teacher requirements for graduate degrees.)This system has created abuses, some charge, with instructors teaching, and students taking, courses that are low in quality, unneeded, and unwanted. "We need to be certain," says Dr. Ashworth, "that the needs of the state are being met, but that the needs are self-evident and not being created."

What may be self-evident to some, may not be to others. The link between dollars and enrollment served as the great motivating force for institutions in the 1960's to meet what was widely held as a pressing social need—to expand higher education toward the goal of universal access. For some, lifelong learning is emerging as the new goal for higher education in the coming decades. At the federal level, the Education Ammendments of 1976 placed new emphasis on the lifelong learning concept. Even if the act provided little new federal money for such activities, it established a context for future direction as well as an expression of the growing political support for such activities. Institutions, which once had only contempt for programs directed at working adults, have turned with enthusiasm to the concept of cradle-to-grave education.

Important questions for institutions and states center on funding. Will lifelong learning be funded by additional dollars or by the reallocation of existing funds? The latter approach requires the difficult job of setting priorities and measuring benefits against costs. Choices will have to be made. How do the needs for continuing education of working adults and increased access through "portable" programs compare to the development of traditional on-campus programs? Lifelong learning advocates point to the changing nature of students to argue their case—there are more older part-time students in need of specific job upgrading. Job constraints limit the flexibility of these students to attend traditional institutional programs.

Critics believe that unless quality is maintained—which they charge is not the case in many nontraditional and off-campus programs—the credibility of higher education will be destroyed. Supporters of off-campus instruction believe, however, that the traditional programs should not serve as models of quality. Students who are returning to school for inservice training are often critical of graduate courses taught by campus-based faculty. To them high quality can mean courses led by adjunct faculty who are working professionals.

The development of teacher education centers in some states has been, in part, the result of teachers' growing dissatisfaction with the campus-based graduate programs. Governed by teachers and school administrators and staffed by colleges and universities, these centers are an effort to separate the noncredit professional inservice needs of teachers from the graduate degree programs of the institutions. Yet, the critics charge, the centers will shop around to find colleges that will pay part of the center costs of faculty and give college credit for such instruction. With the states paying the college for those credit hours, institutions are often receptive to such arrangements.

Educational leaders have been sensitive to criticisms of the quality of off-campus and nontraditional programs. The Council on Postsecondary Accreditation (COPA) is conducting a W. K. Kellogg-funded study of nontraditional education, with the objective of producing more specific guidelines for the development and evaluation of such programs. The Southern Association of Colleges and Schools (SACS) has been more closely monitoring the off-campus operations of its member institutions. Unlike the policies of some of the other regional accrediting associations, SACS subjects the overall off-campus or continuing education division to review, along with on-campus units.

In a recent policy statement on "Non-residential Graduate Degree Programs," the Council of Graduate Schools in the United States (CGS) called upon the regional accrediting associations to "move in the direction of more specific and selective accreditation, rather than accreditation of the institution 'as a whole' as traditionally done." Institutions would be accredited for specific programs in specific locations. Extension to other locations or new program areas would require review and approval. The accrediting associations, however, have been opposed to such a change. "Accreditation must be applied to the institution as a whole," says Dr. Grover Andrews of the Commission on Colleges of SACS. "This does not exclude review and approval of new programs as they are added, but they should not be separately accredited."

One of the weaknesses of the accreditation process has emerged when institutions have operated across regional boundaries of the associations. The regions are working on mutual agreements to cooperate in the evaluation of such programs. The Southern Association has adopted policies to

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this end and expects that all of the associations will do so in the near future.

From the perspective of the state, many of the issues raised here remain unresolved. States do need mechanisms to insure that off-campus programs are being coordinated and that unnecessary duplication is eliminated. Further, many states need to examine both the intent and effect of existing or proposed legislation and rules on licensure. States are sometimes open to the charge that regulation has gone beyond the protection of consumers to policies which discriminate against legitimate nontraditional institutions and modes of delivery.

Unclear, however, is the appropriate role of the states in the evaluation of quality. Many educators believe that efforts in this direction take state agencies out of their area of expertise and will result in erosion of diversity in academic life. The burden of proof remains with the institutions and their regional associations. If they do not keep order in their own houses, states will seek regulatory remedies.

Issues in Higher Education No. 12 was written by James R. Mingle, SREB Research Associate.

Further Reading. . . .

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issues in higher education

Southern Regional Education Board
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1978

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NATIONAL Ed.D. PROGRAM FOR EDUCATIONAL LEADERS

GERALD E. SROUFE
Director

February 1, 1984

TO: Members of the N.C. Legislative Research Committee

FROM: Dr. Gerald E. Sroufe

RE: Additional Information

During the question and answer period of the first session of the Committee a number of questions arose for which it was necessary for me to provide only an approximate or general response. The accompanying information addresses the questions to which I promised to provide additional information.

1. How many graduates from North Carolina since 1973?

   Educational Leaders = 23

2. How many students are in your program in North Carolina at the present time?

   Fifty-eight

3. How many Nova programs are operating in North Carolina?

   Two: The National Ed.D. Program for Educational Leaders; Higher Education

4. How many master's degrees has Nova awarded in North Carolina?

   None

5. How many students at Nova University (total)?

   7,864

6. How many in Law School?

   673

7. How many in undergraduate program at Nova University?

   1112

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8. What is your status in Washington?

We are approved to operate in the State of Washington. In the District of Columbia we are in litigation and awaiting a date for oral arguments.

9. In what States has the program been approved?

Alabama[1]
Arizona[1]
California
Colorado
* Connecticut
Delaware
Florida
* Georgia
Illinois
Maine
* Maryland
Massachusetts
* New Jersey
Oregon
Pennsylvania
South Carolina (most recent approval, January, 1984)
Texas
Virginia
Washington[1]

I have also provided some articles about our programs from nationally known education journals.

I will plan to attend the next meeting of the Committee. If additional questions arise in the interim, please feel free to contact me directly. We are very proud of our program and our graduates and will do whatever is necessary to continue to make it available to administrators in North Carolina and throughout the nation.

Thank you for your time and attention.

cc: Dr. Craig Phillips

Enclosure

* Have been reviewed and approved in past; new review now in process.

[1] No formal site-review is required for approval in these States.

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Gerald E. Sroufe

Nova's Ed.D. Program for Educational Leaders: Looking Backward, Looking Forward

The message to professors of administration was: Change, or new institutions will enter the arena. Nova University is one of those new institutions.

Two questions are addressed in this article: 1) Why did Nova University's National Ed.D. Program for Educational Leaders develop so quickly (it is now little more than two years old); and 2) where is it taking us?

In 1970 the National Conference of Professors of Educational Administration, meeting in San Diego, took the position that no new programs for preparing school administrators were on the horizon.

During that conference a group of professors, assigned to prepare a future-oriented report for the organization, called attention to the elimination of credentialing requirements for the superintendency in California; to the increasing skepticism of state legislators about the effectiveness of credentialing programs in improving education; to the existence of a new graduate program at RAND, a private corporation; and to the then fledgling Union Graduate School Program. The message of the professors to the assembly in San Diego was: "Either changes will have to be made in conventional graduate programs or new institutions will enter the arena." The response was, "It will never happen."

The National Conference of Professors of Educational Administration is composed primarily of established professors. Its members include many of the leading figures in school administration. The committee assigned to "study and report" on the future of educational administration included many respected professors.[1] How, then, can one explain why this aspect of the forecast was rejected when the NCPEA encouraged publication of the full report by the McCutchan Publishing Corporation?[2]

It seems clear now that the committee was insufficiently persuasive because it neglected the important experiential and situational factors out-

GERALD E. SROUFE is director of instruction, National Ed.D. Program for Educational Leaders, Nova University, Fort Lauderdale, Fla. *Readers unfamiliar with the Nova external degree programs may wish to read Richard Morland's "The External Doctorate in Education: Blessing or Blasphemy?" November, 1973,* Kappan*) and Donald P. Mitchell's response to that article, "Let's Set the Record Straight: A Case for Nova's External Doctorate in Education" (February, 1974,* Kappan*).* © *1975 by Gerald E. Sroufe.*

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listed below. All these factors were "known" in 1970, but they were not available to the 1985 Committee because at that time no one thought to ask for the information in just this way.

Experiential factors refer to the knowing or action beliefs of professional educators. They arise from experiencing events and reflecting on their implications. Because of the many programs initiated during the 1960s, educators have reflected at length on their experiences in trying to improve school administration. Some of their conclusions were essential to conceptualizing and implementing the National Ed.D. Program for Educational Leaders.

The Principal as Key. One of the action beliefs of some educators in the sixties and early seventies was that efforts to improve the schools required concentration on the school principals already in the education system. Essentially, this understanding meant that they had rejected the "Ford Foundation Syndrome," i.e., circumventing the system by establishing a new cadre of the educational elite. While Ford provided the most visible leadership to this movement through sponsorship of several essentially elitist programs, the foundation was clearly not alone. During the [illegible] most of the prestigious preparatory programs directed their attention to recruitment of a new population, inculcation of exotic new skills, and development of new points of leverage. These programs are now gone, watered down, or diminished. Many educators were involved in these programs and many, on reflection, concluded that the System was simply too well established to change via an end run. The resulting experientially based action hypothesis – expressed most forcefully by Seymour Sarason – was that the schools can be improved *only by working directly with people in the leadership positions of the school system.*[3]

The Importance of Scale. A second basis for action that grew out of the experiences of the sixties was the common frustration of starting small pilot programs that failed to ignite significant programs. Wonderful programs – for 10 or 20 students. It became a working hypothesis that the only way to develop a significant program – one that could hope to make a real impact in moving the schools – was to *begin* a significant program. For example, in 1972 Donald Mitchell proposed that the federal government invest $33,000,000 annually to provide leadership training to 1,000 school principals[4] each year for five years. (American educators will be interested to note that about $1,000,000 is budgeted for development of each new course offered by the British Open University. Our propensity for allocating one-fourth of a professor's time to complete the same assignment provides a clue to our general naivete about program development in school administration, and to the importance of starting big.)

> "Because of the many programs initiated during the 1960s, educators have reflected at length on their experiences in trying to improve school administration.... [A resulting hypothesis is] that the schools can be improved *only by working directly with people in the leadership positions of the school system.*"

A Depleted Resource: The Behavioral Science Approach. Success has diminished many great ideas. If the school administrators' program was once characterized as the province of the anecdotal, folk tale, and crude efficiency models, it has more recently become the province of pseudo-behavioral science "theory" and "research." The behavioral science approach to administration, including school administration, produced a brief era of discovery that was, apparently, unprecedented. But the gains of that movement in the training of school administrators already have been realized. Contemporary programs, however, continue to suffer from mindless repetition of models once vital but no longer so. By 1970 many educators, including those responsible for the National Program for Educational Leaders located at Ohio State University, believed that it was time to move beyond the notion of "every administrator a behavioral scientist" and begin organizing accumulated knowledge for the benefit of practicing administrators.[5] For these educators the priority had boiled down to synthesis and application of behavioral science knowledge.

(Obviously, few wish to return to the anecdotal era of school administrator preparation. However, preparation programs in which school administrators become temporary experts in research methodology and statistical manipulation, in order to "produce new knowledge" under the canons of social science, are equally unproductive if one's goal is to improve the schools by improving the skills of school administrators.)

Institutional Overload. The most salient point about the Nova Ed.D. programs is that they are *special purpose* programs: One is restricted to community college faculty; one is restricted to school administrators. The experience of some educators has been that in providing pre-positional programs, inservice programs, credentialing programs, and invitational workshops, the intellectual resources of their institutions were challenged and, too often, defeated. Consider the advantages in curriculum development, in selection of instructors, in morale building, in organizational maintenance, in creating support systems, and in establishing appropriate entry requirements, if one makes the decision – simple in retrospect – to provide graduate preparation for a single constituency such as school administrators.

Resistance to Change. The experience of most educators in the sixties was one of shared failure: Institutions seldom responded satisfactorily to pressure for change. The Great Society programs in education attracted the energies of many educators who experienced anew the difficulty of changing things. This experience carried over to notions of reforming or reshaping graduate programs for school administrators. Many catalogues were rewritten, but faculties remained the same. Now, with the winding down of federal Education Professions Development Act funds, little remains of the vigorous new programs that were initiated such a short time ago. For some, it became more reasonable to think of new institutions as the source of new programs than to continue to try to change established institutions.

Technology for Education. No technology is used in the Nova program that was not available, certainly in its essential components, in the 1940s, but refinements in the technology have been important. For example, the difference between jet-powered and propeller-driven aircraft is critical for the delivery system of Nova's instructional program. The difference between audio-cassettes and reel tape and between broadcast television and videotape have had a significant impact in facilitating creation of external degree programs. More important, as an explanation for the "thinkableness" of a Nova-type pro-

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gram, is the fact that during the 1960s many educators began to travel extensively to national and international conferences and came to understand a somewhat startling concept: The technological revolution made it feasible to consider alternatives to the tradition of learning by book and place. Through travel, conference calls, audio and video recordings, and even use of the postal system, teachers and students can extend their minds and overcome traditional barriers to academic excellence.

The preceding discussion suggests that, as far back as 1970, the working beliefs of educators were favorable to development of a national Ed.D. program for educational leaders. I do not argue that these factors, individually or collectively, gave rise to Nova's National Ed.D. Program for Educational Leaders, only that they created a climate that encouraged favorable consideration of such a venture. Without these experiences, conception of the program would have been improbable, implementation impossible.

Situational factors are also important in explaining the origins of the program. Had the following situational factors been explicated before the NCPEA in 1970, it is doubtful that a forecast envisioning creation of new programs for preparing school administrators would have been pointedly rejected.

Legitimacy for Change. Those associated with the 1985 Study could not know that in 1971 the Southern Association of Schools and Colleges would adopt a new standard to encourage development of sound, innovative special-purpose programs. The intention of Standard Nine is clear: "The Commission does not wish to be restrictive to new special activities programs of a member institution, but rather seeks to encourage innovation and an imaginative approach to providing quality instruction according to the educational needs of the college's constituents."[6]

It is the case, as Cyril Houle has stated elsewhere, that "those who guard the gates of accreditation are as well aware of the problems of the present system as those who administer in institutions which are trying to change it. . . . They know the shifts and changes of American education with a depth of understanding which many other people, concerned with only the survival of a single institution, cannot match."[7]

Accreditation has often sanctified traditional ways of doing things in American education; to sanctify innovation through accreditation is a new procedure altogether, and alters favorably the situation confronting new programs. While the Southern Association has taken the lead in this area, it is not alone. Houle's statement is verified by this comment from the Federation of Regional Accrediting Commissions of Higher Education: "[The Federation] welcomes perceptive and imaginative experimentation which aims at intensifying the effectiveness of higher education."[8]

Significant Numbers. The second situational factor that helps explain the National Ed.D. Program for Educational Leaders has to do with numbers.

There are many, many educators with administrative credentials who cannot find administrative positions. In New York State alone, there are approximately 15,000 certified administrators serving in nonadministrative positions; there are fewer than 300 administrative vacancies in the state. Statistics gathered by Ralph Kimbrough for the Southern Regional Conference of Educational Administrators point in the same direction.[9]

Another significant statistic: Approximately 135,000 school administrators do not have advanced degrees. This tells us that those seeking to improve the schools will have to improve the leadership skills of educators already in responsible positions, rather than concentrate on those who aspire to such positions. Thus the logic of the pedagogical strategies characteristic of the Nova Ed.D. program – practicums, summer institutes, clusters, admission requirements, areas of study, residence requirements – becomes evident. The Nova program arises out of a need to serve exclusively a cl[illegible] of practicing school administrator.

Not all educators concerned with graduate preparation of school administrators may have shared the experiences depicted above or drawn similar interpretations from their experiences. Nevertheless, enough shared the same beliefs so that participants, coordinators, and national lecturers could be identified. These widely shared working beliefs also won instant recognition by many educators for the idea of the Nova program. Many parallels exist, for example, between the proposal that Donald Mitchell developed for training administrators and the proposal that Nova University developed, independently, for the Southern Association of Schools and Colleges. Similarly, Luvern Cunningham's proposal for a "national college of leadership," developed independently of the Nova effort, shares many concerns with the Nova Ed.D. programs and, to a lesser extent, employs similar strategies.[10] Many of the emphases of the Consortium for Educational Leadership under Bruce McPherson and Columbus Salley run parallel to ideas developed independently in the Nova program.[11]

If, as some commentators suggest, there is an "arrogance" about the Nova Ed.D. program, it is due to its detachment from the "movement" to reform higher education. Administrators responsible for the program view it as an alternative designed to meet the particular needs of a specific and narrowly defined constituency. Nova is not interested in the "should" or "how" questions of reform in higher education.

One always hopes, of course, that some ideas emphasized by Nova may find their way into conventional programs. This will happen not because of conscious or unconscious aping of the Nova programs, but because the concepts are sound, and because their appeal to professors and administrators is great.

National Context. Conventional wisdom, as well as research in Kentucky,[12] Missouri,[13] Pennsylvania,[14] and Arkansas,[15] points to the observation that most school administrators are raised and educated in the state in which they subsequently spend their professional lives. The creation of a national perspective on education can overcome the psychological barriers of place that impede development of critical reflection about alternative models of school leadership. The Nova Ed.D. program makes use of nationally selected lecturers (themselves cosmopolitans), a national communication network among and for participants, and a summer institute. It may be expected that the procedures for providing a national perspective to school administrators will vary from institution to institution, but it can be predicted that increasing attention will be given to this leadership goal.

Practicums. Lawyers, doctors, and graduates of the Harvard Administrative Careers Program do not write dissertations. The kind of dissertation now required in most graduate programs will be greatly modified (although the term may continue to be used). A practicum in the Nova Ed.D. program is an effort to improve the school system. Problem

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identification and analysis, data gathering, and report writing are means to an end. The dissertation in school administration seldom produces new knowledge (the exceptions to this statement may be counted on the fingers of one hand). Its function is to *prepare* persons to do significant research at a later date. For those seeking to become more effective school administrators, it is much less valuable than a practicum experience. Mindless action certainly causes more mischief than inaction, but an action-oriented program need not be mindless. Research dissertations represent a narrow approach to scholarship. The practicum concept requires scholarly analysis *and* action, and I predict that this synthesis will be generally adopted in graduate programs for school administrators.

Clusters. Serious attention to the notion that mature school administrators can use their experiences to enrich programs of graduate education will become a prominent aspect of preparation programs. Nova clusters create a professional task-oriented group that lasts a minimum of three years; once a cluster is formed, no additional participants are admitted. The cluster participants have a substantial budget to allocate for supplementary instructional resources; they meet as fellow professionals with the national lecturers; they shape key elements of the program through representation on the board, through the summer institute "agenda sessions," and by direct calls to the administration.

The cluster is an instructional resource denied traditional programs in which students, irrespective of the size of a given class, relate individually to the instructional program. Administrators may be expected to insist on retaining their professional status in graduate school, and the result will be extensive development of formal groupings similar to the Nova clusters.

Education Leadership Appraisal.™ Systematic development of management skills associated with educational leadership, and assessment of these skills through carefully designed simulations, will become a major component of graduate programs for school administrators. Evaluation through conventional examination of cognitive skills, projective psychological tests, or defense of theses offers inadequate information about the management skills necessary for educational leaders.

The Education Research Corporation of Boston has worked with Nova in establishing 24 leadership dimensions, simulations suitable for observing and recording behaviors on each dimension, a procedure for recording participant behavior on videotape, and a consensus procedure for appraising observed behavior in accord with the dimensions and for providing a 20-page appraisal report on each individual.[16] The procedure has been pilot tested with four Nova clusters and will become an integral part of the program for the second group of 32 clusters now being formed.

Substantive knowledge, conceptual and analytic skills, and general educational expertise are essential to effective school administration. They are poor predictors of success as an administrator, however, because they provide an incomplete profile. Ability to exercise appropriate control, to delegate authority, to exercise group leadership, to communicate effectively with a variety of audiences, to exercise administrative judgment, to exercise political sensitivity – all are equally important dimensions of education leadership and can best be appraised through a system such as ELA.

While ELA is the most sophisticated system available in education administration at the present time, other approaches can be imagined and will be developed by other institutions. Alonzo Crim, superintendent of schools in Atlanta, has stated that the primary need of urban administrators is increased management competency. Other superintendents have echoed his remarks, and we may anticipate that an appraisal center lies in the future of all programs for preparing school administrators.

With the exception of the paragraphs about "situational factors," little in the preceding argument can be demonstrated, empirically, to be true. The experiential factors may be challenged as too narrow or too broad; some may view them as misperceptions rather than perceptions. Taken together, however, they afford a view of the significant experiential and situational factors involved in creating the setting of which the Nova program is a logical outgrowth. Every graduate program for school administrators is rooted in a perspective which includes a sense of past and future. The preceding paragraphs have offered the perspective of the Nova programs.

If the perspective presented above has substance, it follows that the leadership needs which Nova seeks to address through special emphasis on national context, practicums, clusters, and ELA will be needs that other programs will, in the near future, address in a similar fashion. In other words, Nova has seized on these pedagogical procedures because of its concepts of education leadership. If the perspective outlined above is sound, it is reasonable to anticipate that similar strategies will soon appear in other preparation programs.

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1. NCPEA began holding annual conferences in 1947. Cale Hudson, University of Nebraska, is program chairman for the 1975 meeting. Members of the 1985 Committee, in addition to Walter Hack: Conrad Briner, Stephen Knezevich, Richard Lonsdale, the late Robert Ohm, and Gerald Sroufe.

2. Walter Hack et al., *Educational Futurism 1985* (Berkeley: McCutchan Publishing Corporation, 1971).

3. Seymour Sarason, *The Culture of the School and the Problem of Change* (Boston, Mass.: Allyn and Bacon, 1971).

4. Donald P. Mitchell, *Leadership in Public Education Study* (Washington, D.C.: Academy for Educational Development, Inc., 1972).

5. Their "Proposal for Continued Support of the National Program for Educational Leadership" (Columbus: The Ohio State University, 1974) includes an emphasis on rethinking educational leadership preparation and a focus which includes codification and utilization of relevant knowledge.

6. *Standards of the College Delegate Assembly* (Atlanta: The Southern Association of Colleges and Schools, 1972).

7. Cyril Houle, *Proceedings of Western Conference of External Degree Programs*, from a conference sponsored by the College Entrance Examination Board and Educational Testing Service, 1974, p. 23.

8. Reported in K. Patricia Cross et al., *Planning Non-Traditional Programs* (San Francisco: Jossey-Bass, 1974), pp. 158, 159.

9. Ralph Kimbrough, "Status Report on Phase I of the SKCEA Feasibility Study," October, 1973. Kimbrough's preliminary report – which is to be updated – reveals that education institutions in three states issued 730 administrative certificates but that only 224 new administrators were employed in 1971-72.

10. "A Proposal for Continued Support of the National Program for Educational Leadership" (Columbus: The Ohio State University, 1974).

11. McPherson and David Flight are preparing an article titled "Transfusion for the System." It is expected to appear soon in a national professional journal.

12. Cloud Frady, "Profile of Kentucky Public Senior High School Principals," doctoral dissertation, University of Kentucky, 1966.

13. Harold Massey, "Status of Public Secondary High School Principals in Missouri," doctoral dissertation, University of Missouri, 1951.

14. Clyde Ebersole, "Survey of Elementary School Principals in Pennsylvania," doctoral dissertation, Pennsylvania State University, 1954.

15. Theodore Fortunato, "Study of Secondary School Principals in Arkansas," doctoral dissertation, Memphis State University, 1969.

16. For further information about ELA, contact the Education Research Corporation, 85 Main St., Watertown, Mass. 02172. □

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27611

February 7, 1984

MEMORANDUM

TO: Members of the Legislative Research Commission
Study Committee on Higher Education Regulations

FROM: Susan L. Sabre, Committee Counsel SLS

ABOUT: Background Materials on Accreditation

As the Committee requested, I am sending you a number of materials on accreditation for you to study prior to the February 15 meeting. These materials include:

(1) 2 selections from the new book, Understanding Accreditation, (1983), produced in conjunction with COPA. These selections include a chapter on the complementary rules of state and accrediting bodies and three appendices (Recourses) setting out the accrediting groups recognized by COPA, the provisions and procedures for becoming recognized as an accrediting agency, and guidelines on interagency cooperation in accreditation;

(2) An article, "Accrediting Standards and Guidelines: A Profile" (1978), by Dorothy G. Peterson of COPA;

(3) A chapter, "Regional Accrediting Associations" from the publication Accrediting Standards and Guidelines: A current Profile 1979), also by Dorothy G. Peterson;

(4) A brochure produced by the Association of Independent Colleges and Schools;

(5) A comparison, (Comparison A), of the Board of Governors' minimum standards for licensure and the accrediting standards of the Association of Independent Colleges and Schools done by the Association;

(6) A selected comparison, (Comparison B), of the same, done by the University of North Carolina;

(7) A letter from the University.

[I have also enclosed a response requested by the Committee from the University regarding Nova's licensing activities in other states.]

At the February meeting, Dr. Grover Andrews, Assistant Vice Chancellor for Extension and Public Service at North Carolina State University will make a brief presentation on accreditation and will remain to answer questions throughout the meeting. He served for 11 years with the Southern regional association and will be most valuable to the committee in its deliberations.

In studying the materials, a few things should be kept in mind. Although opinions do differ on precisely how accreditation can function, there is a consensus that:

". Accreditation should be used in ways that clearly serves the public interest or, at the very least, to not clearly contravene the public interest.

. Accreditation should be used in ways that do not conflict with its primary purpose - to encourage and assist institutions of postsecondary education to evaluate and improve their educational quality.

. Accreditation should be used in ways that do not compromise its essential characteristics as a voluntary, self-regulatory, nongovernmental evaluation procedure." (emphasis added; Understanding Accreditation, p. 75.)

There is also a consensus that, in order to preserve these essential characteristics of accreditation, accreditation cannot be substituted for licensure, an essential governmental function in any case, even in the most difficult one of interstate education. To cite Understanding Accreditation again:

"...a member of states, at the urging of some accrediting bodies, have exempted accrediting institutions from licensure. However, a normal assumption would be that the state agency should exercise the first level of oversight through licensure, especially given that colleges and universities must be licensed before they can seek accreditation with regional associations. The state agency would then have a logical concern that institutions comply with its minimum standards and other applicable statutes and regulations." (p. 78.)

In summary, COPA's position, as stated in one of its formal recommendations in Understanding Accreditation is:
"States that have no chartering or licensing laws for institutions of postsecondary education, or inadequate ones, should strengthen

their statutes to bring them up to the standards recommended by the Education Commission of the States in its 1973 model state legislation. (p. 397.) [This model act was used by the Board of Governors in adopting its licensing standards and has been, in large part, incorporated into H.B. 988.]

Please bring all of these materials with you to the meeting February 15 and please call me if you have any questions or comments at (919)733-6660.

SLS/wcf
W1-54

Enclosures

THE UNIVERSITY OF NORTH CAROLINA
General Administration
P. O. BOX 2688
CHAPEL HILL 27514

ROY CARROLL
Vice President—Planning

TELEPHONE: (919) 962-4661

February 7, 1984

Ms. Susan Sabre
Legislative Drafting
Legislative Building
Raleigh, North Carolina 27611

Dear Ms. Sabre:

You will recall that at the meeting of the legislative study commission on January 18 the suggestion was made that accreditation ought to be accepted in lieu of licensure or as evidence of compliance with minimum standards for licensure. In my presentation and in subsequent discussions I indicated the major reasons for not doing so.

For the record, I should like to reiterate those reasons.

1. Accreditation and licensure serve different purposes. Accrediting associations are private and essentially voluntary organizations whose primary purpose is to serve the interests of the member institutions. State licensure is a state responsibility, the primary purpose of which is to serve and to protect the public interest.

2. State licensure is a prerequisite to legitimate accreditation. A legitimate accrediting body will not even consider an institution for membership until it has been authorized to operate within a state by the appropriate State authority. Accreditation cannot, therefore, be accepted in lieu of initial State licensure.

3. Constitutionally and historically, states have had primary responsibility with respect to the conduct of postsecondary education within their own borders.

4. Accrediting associations, including the best of the regional accreditation bodies, have not been able to deal effectively with the pervasive new phenomenon of degree programs offered away from the home campus of an institution, especially if the programs are offered across state lines or exported beyond the region.

5. Visitation and evaluation of member institutions by accrediting commissions come infrequently, for example, once every six years for members of the Association of Independent Colleges and Schools (AICS, the trade association of proprietary institutions) and once every ten years for institutions regionally accredited by the Southern Association. State licensure involves an evaluation by a visitation team every two years. This more frequent monitoring enables the State licensing authority to notify Veterans Administration agencies, student financial aid agencies, and other appro-

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priate groups, as well as potential customers and employers, if the institution is not maintaining standards for licensure.

6. The standards for accreditation by AICS and some other accrediting bodies are more general and more vague and, on some points, lower than the Standards and Guidelines adopted by the Board of Governors.

7. The most compelling reason for not accepting accreditation in lieu of licensure arises from the actual experience of the Board of Governors in dealing with requests for renewal of licensure. There are some institutions that are accredited but appear to have great difficulty in meeting and maintaining the minimal standards for licensure. In successive visits by examining teams, these institutions are unable or are reluctant to demonstrate that they can meet and maintain the standards. It is not mere coincidence that the institutions who have the most difficulty in meeting the standards, who are the most evasive in regard to compliance, and who are in some respects not even in current compliance with accreditation standards are the ones who are most insistent that their accreditation status should be accepted in lieu of licensure.

   The Board has told those institutions repeatedly that it might be willing to accept accreditation as evidence of compliance if, and when, they have demonstrated clearly over a period of time that they are consistently and conscientiously maintaining compliance with standards for licensure. It is a matter of establishing credibility.

8. To accept accreditation in lieu of licensure or as evidence of compliance with minimum standards for licensure would weaken the licensing authority of the State and its ability to protect the public interest. The intent of House Bill 988 was to strengthen the State's position in meeting this responsibility.

It is our hope, therefore, that the commission will not recommend the acceptance of accreditation in lieu of licensure.

Sincerely,

Roy Carroll

Roy Carroll

cc: Senator Tally
Representative Thomas
President Friday
Mr. R. D. McMillan

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tion Service, which is based in Maryland.

The ...ization is composed of federal employees who receive training in the logistics of controlling major animal culture official addressed growers this week on detecting the disease.

Outz is advising farmers to submit blood samples of poultry if they have doubts.

The last couple of days sure haven't felt like February in North Carolina, but there have been few complaints. Julianne Ollis of Morganton decided to give her son, Lewis, center, and two of his ...s, Eleanor and Rosemarie Dorman, left and right, an afternoon stroll in the bright sunshine.

(AP Laserphoto)

Law Urged On Out-Of-State Colleges

By TOM OLIVER
Herald Raleigh Bureau

RALEIGH — A legislative study commission recommended Wednesday a stronger state law governing private colleges that hold classes in North Carolina.

The current law requires such colleges to be licensed by the University of North Carolina Board of Governors, but a Florida college won a lawsuit against the university system in 1981 after the board of governors denied it a license.

The Legislative Research Commission on the Regulation of Non-Public and Public Post-Secondary Education Institutions voted 7 to 1 to recommend that a stronger law be enacted by the 1984 Legislature.

Commission member Carl Settle, president of Rutledge College Inc., cast the only vote against the recommendation.

Others opposing the recommendation were Craig Phillips, state superintendent of public instruction, and Gerald Sroufe of Nova University in Fort Lauderdale, Fla., the college that won the lawsuit.

Settle, Stroufe and Phillips, who is an adviser to Nova University, recommended that the board of governors be required to license schools that are properly accredited.

Stroufe said that the law that the commission recommended would allow the UNC Board of Governors to deny licenses to out-of-state colleges offering extension courses that compete with the university for students.

In the 1981 lawsuit, the court ruled that the wording of the state law did not allow the board of governors to regulate Nova because its diplomas were handed out in Florida.

The commission recommended Wednesday that the wording of the law be changed to require that a private college be licensed before holding classes in North Carolina that would lead to a degree.

The law exempts religious education and private colleges that began operations before July 1, 1972. Nova University began offering classes in North Carolina in 1973, according to Sroufe.

The law recommended by the commission was drafted by University of North Carolina lawyers and introduced in the 1983 General Assembly by Rep. Betty Thomas, D-Cabarrus. It passed in the House of Representatives but stalled in a Senate committee. A compromise bill, which called for the appointment of a commission to study the issue, was ratified.

Those voting for the recommendation Wednesday were Rep. Thomas, whose daughter is a member of the board of governors; Rep. Anne Barnes of Chapel Hill; Chancellor E.K. Fretwell Jr. of UNC-Charlotte; Chancellor H.F. Robinson of Western Carolina University; Rep. Charles Woodard, D-Wayne; Rep. Gordon Greenwood, D-Buncombe; and Sen. Lura Tally, D-Cumberland.

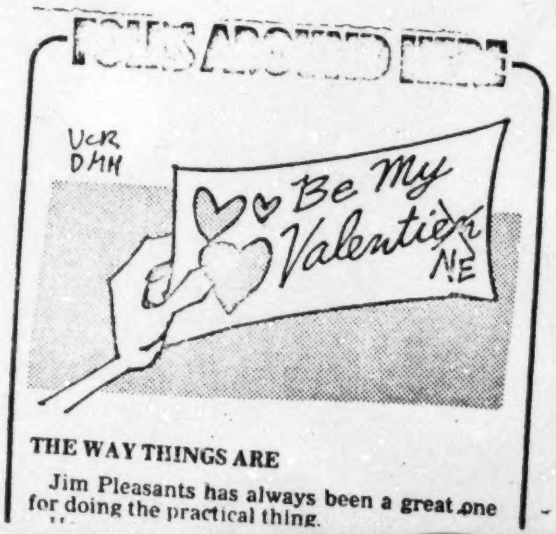
The committee rejected Settle's proposal that the law include a clause requiring that a license be granted to any accredited school.

Phillips told the committee he favors efforts to halt irresponsible, non-accredited diploma mills. But he said he opposed the bill because it was aimed at Nova University's extension program, which offers doctorate degrees in education in North Carolina.

Phillips said he has served as an unpaid adviser to the Nova program. That program, he said, is accredited by the Southern Association of Colleges and Schools.

It is unique because it allows professional educators to study for a doctorate without giving up their jobs, Phillips said.

Durham Morning Herald 2/16/84
E-42



THE WAY THINGS ARE

Jim Pleasants has always been a great one for doing the practical thing.

Elon College Gets $80,000 Donation

ELON COLLEGE — An Alamance County textile company, Glen Raven Mills Inc., has donated $80,000 to the Elon College PRIDE II Campaign as a challenge to other Alamance companies and individuals to pledge donations.

The company also announced when the gift was announced at a kickoff luncheon for a new phase of the three-year fund-raising campaign that it will donate $1,000 to the college for every pledge of $1,000 or more up to $80,000 made by any individual, company or organization.

The challenge gift was announced at the kickoff of the Alamance Campaign, which college officials described as a "mini-campaign" within the larger campaign.

PRIDE (Providing Resources for Institutional Development at Elon) II was just launched last fall but it already was nearing its initial goal early this year.

The goal is $5.7 million, which will be used to build a fine arts center on the Elon campus, fund endowments, make various campus improvements and help meet operating expenses.

J. Fred Young, president of the college, said that during the Alamance campaign more than 200 volunteers will call on businesses and individuals in Alamance County soliciting donations to meet the challenge offered by Glen Raven Mills.

Stabilization Leader Not Unc

Second In A Series